

**MINUTES OF A REGULAR MEETING OF THE
PLANNING COMMISSION OF THE CITY OF BRADBURY,
HELD ON AUGUST 28, 2013 AT 7:00 PM
IN THE BRADBURY CIVIC CENTER**

Meeting Called to Order: The meeting of the Planning Commission of the City of Bradbury was called to order by Vice-Chairperson Esparza at 7:00 p.m.

Pledge of Allegiance: Commissioner Novodor led the pledge of Allegiance.

Roll Call: PRESENT: Vice-Chairperson Esparza, Commissioners Hernandez and Novodor
ABSENT: Chairperson Kuba, Commissioner Dunst
STAFF: City Manager Keith, City Planner McIntosh, City Clerk Saldana, Management Analyst Kearney, David Meyer with LDM Associates

Commissioners Excused: Commissioner Novodor made a motion to excuse Chairman Kuba and Commissioner Dunst from the meeting. Commissioner Hernandez seconded the motion, which carried.

Approval of Agenda: Commissioner Hernandez made a motion to approve the agenda as presented. Commissioner Novodor seconded the motion, which carried.

Approval of July 24, 2013 Minutes: Commissioner Hernandez made a motion to approve the minutes of the July 24, 2013 Planning Commission meeting. Chairman Novodor seconded the motion, which carried.

Compliance with California Political Reform Act: In compliance with the California Political Reform Act, each Commissioner has the responsibility to disclose direct or indirect potential for a personal financial impact as a result of participation in the decision making process concerning development applications. The Commissioners disclosed the following information relative to the items contained on the agenda:

General Plan Update: General Plan 2012-2030 Update:
Citywide

LLA 13-15: Lot Line Adjustment No. LLA 13-15 for 325/475 Mount Olive Drive:

Commissioners residing within 500 feet of 325/475 Mt. Olive Drive:
None

TPM 72325: Tentative Parcel Map No. 72325 for 147 Sawpit Lane:

Commissioners residing within 500 feet of 147 Sawpit Lane:
None

Motion: Commissioner Novodor made a motion to receive and file the report as presented. Commissioner Hernandez seconded the motion, which carried.

Speaker Cards: City Manager Keith asked those in attendance to please fill out speaker cards to testify in the Public Hearings.

General Plan 2012-2030 Update – Environmental Assessment: General Plan Consultant (and former City Planner) David Meyer stated that he has been retained to prepare the General Plan 2012-2030 Update. The General Plan was presented to the Planning Commission at its July 24 meeting by the Chairman of the General Plan Steering Committee, Mr. James Hunt, and was reviewed extensively at that time. The Planning Commission continued the Public Hearing to allow the environmental consultants to complete their work. The Planning Commission has been presented with a copy of the Environmental Documentation, which is thicker than the General Plan itself.

Mr. Meyer mentioned that there are four (4) parcels in the City of Monrovia that fall under the sphere of influence of the City of Bradbury.

Mr. Meyer stated that the City of Bradbury adopted a comprehensive General Plan in 1994. As part of the adoption process the City Council certified an Environmental Impact Report (EIR) for the project. In 2007 the City Council reviewed the 1994 General Plan and found that the goals, objectives, policies and land use patterns were still relevant and appropriate for the community.

The City's Steering Committee has recommended re-adoption of the land use patterns established by the 1994 General Plan and the subsequent 2007 review of the plan. Data in the General Plan 2012-2030 Update has been reviewed and revised to reflect changes made to the City within the past 19 to 20 years. The proposed General Plan has been rewritten to be more consistent with the State General Plan Guidelines. A Climate Action Plan has been added to the General Plan in response to direction provided by the State of California.

Staff is of the opinion that the environmental impacts that may be caused by the proposed General Plan 2012-20130 Update have been thoroughly analyzed and mitigated by the 1994 EIR. No significant effects have been identified that have not previously been analyzed in the certified EIR. An Addendum to the General Plan base EIR has been prepared to demonstrate pursuant to CEQA Guidelines Section 15162 that the circumstances, impacts and mitigation measures identified in the 1993 City of Bradbury General Plan Final EIR remain substantively unchanged in the 2012-2030 Bradbury General Plan Update. In addition, the Addendum supports the finding that the 2012-2030 General Plan Update does not raise any new issues and does not cause the level of impacts identified in the 1993 EIR to be exceeded.

Recommendation: In accordance with the provisions of Section 15164 of the California Environmental Quality Act (CEQA) Guidelines, staff is recommending the approval and adoption of an Amendment to the 1993 General Plan EIR.

Public Hearing Opened: Vice-Chairman Esparza opened the Public Hearing and asked those wishing to speak in favor or opposition to come forward and be heard.

Public Testimony:

Thierry Montoya with AlvaradoSmith, 1 MacArthur Place, Suite 200, Santa Ana, stated that he is representing D&M Investments, which purchased 192 acres of vacant land (hillside/open space property) in Bradbury. Mr. Montoya hand-delivered a letter dated August 28, 2013 addressed to the Members of the Planning Commission asking that it be made part of the administrative records (attached hereto). A Public Records Request, dated August 28, 2013 was also submitted.

Mr. Montoya contended that the General Plan Update does not "update" the General Plan 2007, but rather attempts to eviscerate the binding A-5 land use designation, based entirely on unsubstantiated conclusions for which no study or analysis has been presented. The manifest change from an A-5 land use designation to a hillside preservation/open space one must be preceded by a California Environmental Quality Act (CEQA) study, more particularly, an Environmental Impact Report (EIR), given the significance of the proposed land use change. For these reasons, D&M opposes any City attempt to adopt the General Plan Update as any such decision would be arbitrary, capricious, and lacking in evidentiary support.

Commissioner Novodor asked Mr. Montoya if he is representing the other property owner, Mr. Robert Bodkin, as well. The answer was no.

Commissioner Hernandez inquired when D&M officially became the new property owner. The question was not answered.

City Manager Keith asked Mr. Montoya if he compared the General Plan 2012-2030 Update to the 2007 General Plan. Mr. Montoya replied he did.

City Manager Keith stated that there is nothing in the General Plan that would prevent the property owner from submitting a development application to the City.

Mr. Montoya continued to describe the General Plan Update as a "mischaracterization."

Commissioner Novodor reminded Mr. Montoya that we are not in court here and to stop with the legal arguments. Mr. Montoya replied that he would not and that his comments were officially being made to the administrative record. Mr. Montoya stated that his client has the right to pursue an A-5 designation and that the City is taking that away.

City Planner McIntosh stated that she does not see where in the General Plan that is.

Commissioner Novodor asked Mr. Montoya to finish his comments.

Mr. Robert Bodkin stated that he is the owner of the other half of the 302 acres of property. Mr. Bodkin stated that he was never notified of what was going on and that he felt the City was taking away his property. There is a potential for 30 lots up there at \$5 million a lot. That will solve Bradbury's economic problems from now until the end of time because of the property tax involved.

**Public Hearing
Closed:**

There being no further testimony, Vice-Chairman Esparza declared the Public Hearing closed.

Discussion: General Plan Consultant David Meyer asked the Commissioners if they wanted him to respond to the comments made. The answer was yes.

Mr. Meyer stated that in terms of notifications, over the last 18 months the General Plan Steering Committee started working on the project. The project has been notified in a myriad of different methods that are available to the City, including standard posting and the City's website. We (the City) used all the resources available to us to put this particular item before the public.

With respect to Mr. Montoya's comment of the General Plan being arbitrary, capricious, and a number of other terms, and the contention that his clients are being denied the opportunity to file a development application based on the General Plan, this is untrue. And the opportunity to file development applications with respect to the zoning on that property is exactly the same. Nothing in this General Plan, which is a long-term policy document, contains anything that would impact their ability to file a development application.

Mr. Meyer stated that it would still be staff's recommendation that the Planning Commission adopt the Draft Resolution recommending that the City Council adopt the Bradbury General Plan 2012-2030 Update.

Motion: Commissioner Novodor made a motion to adopt Draft Resolution No. 13-225.PC recommending that the City Council adopt the Bradbury General Plan 2012-2030 Update. Commissioner Hernandez seconded the motion, which was carried by the following roll call vote:

Approved: AYES: Vice-Chairperson Esparza, Commissioners Hernandez, Novodor
NOES: None
ABSENT: Chairperson Kuba, Commissioner Dunst

LLA No. 13-15 for 325/475 Mount Olive Drive: City Planner McIntosh stated that the applicants are requesting approval of an adjustment to the configuration of the common property line between two adjacent parcels. The adjustment does not change the acreage on their lot, but is needed to accommodate existing property features that currently cross property line or are within required setback areas.

General Plan and Zone: The City's General Plan designates the parcels as Estate 2-acre. Each parcel adjusted by the approval will continue to conform to the City's land use requirements. The proposed project is consistent with the goals and objectives of the City's adopted General Plan in terms of land use and density. The subject property is zoned A-2 (Agriculture/Residential 2-acre minimum lot size).

Environmental Assessment: The proposed lot line adjustment is Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15315, Class 15 (minor divisions of land).

Parcel 1: Parcel 1 (APN 8527-019-015) is described as Lot 1, Tract No. 22656, Map Book 613, pages 24-26. This parcel is an irregular shaped lot located at the bend of the road along the inclining portion of Mount Olive Drive. It is developed with a home, a horse stable, and a horse training area. The horse training area currently straddles the two properties along the property line. After the lot line adjustment is approved, the horse training area will be entirely on this property.

Parcel 2: Parcel 2 (APN 8527-019-021) is described as a portion of Lot 3 of Section 29, T1N, R10W of the Subdivision of the Rancho Azusa of Duarte in the City of Bradbury in Book 6, pages 80-82. This parcel is also an irregular shaped lot with a long flag portion along the rear of the interior side lot line and a very wide frontage. The lot is developed with a home, pool and horse stable. After the lot line adjustment is approved, the property will have a more rectangular configuration.

Recommendation: Staff recommends that the Planning Commission adopt Resolution No. 13-225.PC approving the Lot Line Adjustment No.13-15.

Public Hearing Opened: Vice-Chairperson Esparza opened the Public Hearing and asked those wishing to speak in favor or opposition to come forward and be heard.

Public Testimony: None

Public Hearing Closed: There being no public testimony, Vice-Chairperson Esparza declared the Public Hearing Closed.

Motion: Commissioner Hernandez made a motion to adopt Resolution No. 13-226.PC conditionally approving Lot Line Adjustment No. LLA 13-18, subject to the conditions in the staff report dated August 28, 2013. Commissioner Novodor seconded the motion, which was carried by the following roll call vote

Approved: AYES: Vice-Chairperson Esparza, Commissioners Hernandez, Novodor
NOES: None
ABSENT: Chairperson Kuba, Commissioner Dunst

Tentative Parcel Map No. TPM 72325 for 147 Sawpit Lane: City Planner McIntosh stated that the applicant, Sanjeet Nijjar, is requesting approval of plans to subdivide a 12.80 gross acre parcel of land into two (2) lots for the future construction of one additional single-family residential estate dwelling unit. The two lots will each be in excess of five (5) acres, one parcel 7.769 acres of gross area and the other parcel 5.083 acres gross area with a new private street from Sawpit Lane to the front of each parcel.

General Plan and Zone: The City's adopted General Plan designates the subject property as "Estate 5-acre." The subject property contains 12.80 gross acres of land area. The proposed project is consistent with the goals and objectives of the City's adopted General Plan in terms of land use and density. The subject property is zoned A-5 (Agriculture/Residential 5-acre minimum lot size). The A-5 zone allows residential and equestrian uses.

Environmental Assessment:

The proposed subdivision of the subject property into two residential estate lots and the grading of the proposed building pad is considered minor in nature. Therefore, the proposed project is Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15315, Class 15 of the State CEQA Guidelines.

Recommendation:

The Planning Department recommends that the Planning Commission adopt a Resolution recommending that the City Council conditionally approved the proposed subdivision request subject to the following conditions:

Environmental:

It is suggested that the Planning Commission recommend that the City Council adopt an Environmental Categorical Exemption in accordance with the provisions of CEQA and Local Environmental Guidelines.

Findings:

It is suggested that the Planning Commission recommend that the City Council adopt the following findings of fact relative to the proposed subdivision and variance request:

Tentative Parcel Map:

1. The proposed parcel map as submitted and conditioned herein is consistent with the adopted general plan and zoning code.
2. The design and improvement of the proposed subdivision is consistent with the adopted general plan and zoning code.
3. The site is physically suitable for the proposed type of development.
4. The site is physically suitable for the proposed density.
5. The design of the subdivision and proposed improvements are not likely to cause substantial environmental damage and will not cause substantial environmental damage and will not substantially and avoidably injure fish or wildlife or their habitat.
6. The design of the subdivision and type of improvements are not likely to cause serious public health problems.
7. The design of the subdivision and the type of improvements will not conflict with easements, acquired by the public at large for access through or the use of property within the proposed subdivision.

Public Hearing Opened:

Vice-Chairperson Esparza opened the Public Hearing and asked those wishing to speak in favor or opposition to come forward and be heard.

Public Testimony:

The applicant Sanjeet Nijjar, 29 Starlite Drive, stated that he plans to clean up the property, trim the trees (no tree removals), and put in the private street.

Mark Schluder, 142 Madeleine, Monrovia, stated that he has no objections to the project, but was concerned about the view impact of future development. Mr. Schluder also stated that he was against solar arrays. Commissioner Hernandez stated that the City does not regulate solar arrays, the State does.

Public Hearing Closed:

There being no further public testimony Vice-Chairperson Esparza declared the Public Hearing closed.

Motion: Commissioner Hernandez made a motion to adopt Resolution No. 13-227.PC, recommending that the City Council approve Tentative Parcel Map No. TPM 72325 (147 Sawpit Lane) subject to the conditions in the staff report dated August 28, 2013. Commissioner Novodor seconded the motion, which was carried by the following roll call vote:

Approved: AYES: Vice-Chairperson Esparza, Commissioners Hernandez, Novodor
NOES: None
ABSENT: Chairperson Kuba, Commissioner Dunst

Public Comment: None

Reports and Items for Future Agendas: A. Commission Members: Commissioner Novodor stated that Mrs. Iglesias, 2428 Mount Olive Lane, was required to set back her fence which she never did, but took off the gate. The gate is back on again. Maybe this is a code enforcement issue for staff to look into.

B. City Manager: City Manager Keith stated that City Hall will be closed on Monday, September 2, for Labor Day and Friday, September 6, for First Friday Closure. The City Manager also stated that staff is working on a fire safe grant to further the fire reduction efforts in the community.

C. City Planner: Anne McIntosh stated that she is continuing to work on the Planning Department Project Status Log, so it is not in the packet for tonight, but she will try to get it to the Commissioners by next week.

Adjournment: At 7:53 p.m. Vice-Chairperson Esparza adjourned the meeting to Wednesday, September 26, 2013 at 7:00 p.m.


Susan Esparza – Vice-Chairperson

ATTEST:


Claudia Saldana - City Clerk



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Raymond G. Alvarado,
Retired

August 28, 2013

VIA FACSIMILE AND HAND DELIVERY

Honorable Planning Commission
City of Bradbury
600 Winston Ave.
Bradbury, CA 91008

ATTACH THIS LETTER AS PART OF THE PUBLIC RECORD OF THE PLANNING COMMISSION'S AUGUST 28, 2013, REGULAR MEETING TO DISCUSS THE CITY OF BRADBURY'S, ("CITY"), PROPOSED GENERAL PLAN 2012-2030 UPDATES

Honorable Members of the Planning Commission:

This office and the undersigned represent D&M Investments, Inc., ("DM"), the owner of 192-acres located within the 302-acre site that the General Plan-2012-2030, Community Resources Element, Draft, ("General Plan Update") seeks to reserve for hillside preservation and open space, in direct contravention to the existing and legally permitted "A-5" land use designation currently in place via the General Plan, 2007. The General Plan Update does not "update" the General Plan, 2007, but rather attempts to eviscerate the binding "A-5" land use designation, based entirely on unsubstantiated conclusions for which no study or analysis is presented. The manifest change from an "A-5" land use designation to a hillside preservation/open space one must be preceded by a *California Environmental Quality Act*, ("CEQA"), study, more particularly, an Environmental Impact Report, ("EIR"), given the significance of the proposed land use change. The General Plan, 2007's "A-5" land use designation controls, and any land use change would be significant by definition, thereby warranting an independent CEQA analysis in support thereof. For these reasons, DM opposes any City attempt to adopt the General Plan Update as any such decision would be arbitrary, capricious, and lacking in evidentiary support.

All cities and counties in California must develop and approve a general plan. *Government Code* section 65300, 65302. The general plan is a "constitution" for future developments within the city or county and the propriety of virtually any local land use and development decision depends upon its consistency with the applicable general plan. [*Government Code* section 65300.5, 65454-specific plan must be consistent with general plan]; [*Corona-Norco Unified School District v. City of Corona*, 17 Cal.App.4th 985, 994-consistency

Honorable Planning Commission
City of Bradbury
August 28, 2013
Page 2

doctrine is the linchpin of California land use and development laws]. General Plan, 2007, currently designates DM's 192-acre parcel under an "A-5" land use designation, "...characterized by single-family residential development on larger lots...permitted density within this zone ranges from one dwelling unit per five acres and up."

The proposed General Plan "Update" recitation of the current land use designation as hillside preservation is a complete misnomer; it is entirely inconsistent with the General Plan, 2007's "A-5" land use designation. Additionally, the General Plan Update seeks to justify its land use designation change from "A-5" to "hillside preservation area/open space," based entirely on unsupported conclusions that: "environmental constraints may be so severe that development of this area, [302-acres], may not be realistic. This area has been designated for hillside preservation." See, General Plan, Update, Hillside Preservation Area, page 3. Clearly, the General Plan, 2007 continues to designate D&M's 192-acre parcel under its "A-5" designation, and there is no evidence-no study, no analysis-presented in the General Plan Update that proves that any portion of the 302-acres had been "designated for hillside preservation." Rather, all of the 302-acres continues to appear designated under an "A-5" land use characterization.

Moreover, the General Plan Update does not cite to or incorporate any study or analysis to support its many environmental, biological, or geological conclusions that "environmental constraints may be so severe that development of this area, [302-acres], may not be realistic." Here are but a few examples of the bald, unsubstantiated conclusions that are put forth as fact to justify eviscerating the current, legal "A-5" land use designation upon D&M's property.

- The "steep hillsides areas are considered ecologically significant due to their vacant state and the presence of native vegetation." See, General Plan Update, High Sensitivity, page 12;
- The 302-acres are noted as "deemed to be physically and economically infeasible" for development. See, General Plan Update, Resource Management Areas, page 13.
- "Abundant wildlife either reside in this area, [302-acres], or transverse the area in search of food and shelter." See, General Plan Update, Hillside Preservation Areas, page 3.
- "Approximately 356-acres...either prohibit development or is considered infeasible for development activity." See, General Plan Update, Resource Management Areas, page 13.

None of these statements are supported by empirical studies or reliable data.



Honorable Planning Commission
City of Bradbury
August 28, 2013
Page 3

The City's reliance on the alleged significance of its environmental, biological, and geologic conclusions confirms the need for a CEQA study, an EIR in particular. The adoption and amendment of general plans and their elements are projects within the meaning of CEQA. *California Code of Regulations* tit. 14, section 15378(a)(1). The City's meaningful and complete departure from the legally permitted "A-5" land use designation must be preceded by a CEQA, EIR analysis, given the "significance" of the many environmental issues the City puts forth to justify its General Plan Update. The City has not conducted an EIR analysis of its General Plan since 1993. The City's August 2013, Environmental Impact Report, Addendum, does not address the planned development of the 302-acres, does not address the purported hillside/open space "project," and does not address any of the General Plan Update's alleged environmental, biological, and geologic factual conclusions.

A CEQA study is also warranted as D&M has never been afforded any opportunity to comment on any aspect of the General Plan Update's purported "conclusions and findings." D&M has the legal right to participate, as a member of the public, in any City sponsored hillside preservation/open space EIR analysis that it wishes to conduct in the future. Otherwise, the General Plan, 2007's "A-5" land use designation controls and D&M will take all appropriate legal action to protect this binding land use designation on property it lawfully owns.

Very truly yours,

ALVARADO SMITH
A Professional Corporation

A handwritten signature in black ink that reads 'Thierry R. Montoya'.

Thierry R. Montoya

TRM:dh