

SOLANA BEACH CITY COUNCIL
REDEVELOPMENT AGENCY AND PUBLIC FINANCING AUTHORITY

JOINT **SPECIAL** MEETING

MINUTES

MONDAY, APRIL 28, 2008
5:00 P.M.

CITY COUNCIL CHAMBERS
635 S. HIGHWAY 101,
SOLANA BEACH, CALIFORNIA

The City Council acts as the City of Solana Beach Redevelopment Agency and the Public Financing Authority.

CALL TO ORDER AND ROLL CALL:

Mayor Kellejian called the meeting to order at 5:00 p.m.

Present: Kellejian, Roberts, Nichols, Campbell, and Heebner.

Absent: None.

Also Present: David Ott, City Manager
Wende Protzman, Dir. Admin Serv/Dep. City Mgr
Johanna Canlas, City Attorney
Lisa Foster, Deputy City Attorney
Leticia Fallone, Deputy City Clerk
Lori Naylor, Project Consultant
Dan Goldberg, Interim City Engineer
Richard Whipple, Principal Planner

FLAG SALUTE:

Mayor Kellejian led the flag salute.

APPROVAL OF AGENDA:

MOTION: Moved by Roberts and seconded by Heebner to approve the agenda
Motion carried unanimously.

PUBLIC HEARINGS:

This portion of the agenda provides citizens an opportunity to express their views on a specific issue as required by law after proper noticing by submitting a speaker slip (located on the back table) to the City Clerk. After considering all of the evidence, including written materials and oral testimony, the City Council must make a decision supported by findings and the findings must be supported by substantial evidence in the record. An applicant or designee for a private development/business project, for which the public hearing is being held, is allotted a total of fifteen minutes to speak, as per SBMC 2.04.210. A portion of the fifteen minutes may be saved to respond to those who speak in opposition. All other speakers have three minutes each. Please be aware of the three-minute timer light on the Council Dais.

1. Request for a Development Review Permit, Structure Development Permit, and Tentative Map for the Mixed-Use Solana Beach Train Station Project (Cedros Crossing). Case No: 17-04-24 DRP/SDP/SUB.

Applicants: North County Transit District - property owner.
Sheadona LLC (Shea Properties) project developer.

Recommendation: That the City Council

- A. Direct the applicant to redesign the project to be consistent with the General Plan, Solana Beach Municipal Code Title 17 (Zoning), and Highway 101 Specific Plan.

David Ott, City Manager, stated that this was the first time the project was before Council for a project determination hearing.

Lori Naylor, Project Consultant, presented a power point presentation on the Solana Beach Mixed-Used Train Station Project known as Cedros Crossing. She stated that the property was owned by the North County Transit District (NCTD) and that the developer was Shea Properties. She stated that the project involved three different permits; a Development Review Permit, Structural Development Permit, and a Tentative Map Permit. She stated that the site was located on the west side of Cedros Ave, that the project covered 5.66 acres of land, that there would be retail, office space, residential units, and 517 new parking spaces. She stated that there would be 141 residential units, that the project was proposed to be built in two phases, that the first phase would include the parking garage, and that the remainder of the project would be built in phase two. She stated that excavated sand would be used for beach nourishment and that there were three parking structures proposed with the project.

Lori Naylor, Project Consultant, reviewed the construction details for the project and showed photo simulations of each building on the property. She stated that the project had to follow the General Plan, that the commercial portion of the

project was subject to the requirements of the Plaza District, that the residential component was in the North Cedros District, and had to follow the Highway 101 Specific Plan and the Mixed-Use Development Standards. She reviewed the development standards, reviewed whether or not the project met the various standards, and stated that the project met the street façade daylight plane standards, and the City's Floor Area Ratio standards. She stated that the City did not have residential parking standards, that the residential parking standards were dictated by state laws due to the density bonus component of the project, and that the project met the residential parking requirements set by state law. She stated that the City did not have standards for transit parking, that this issue was covered in the Environmental Impact Report (EIR), and that the City did an analysis to forecast future parking needs due to the project being a transit oriented parking project. She stated that the developer was proposing 14 affordable housing units on the project site, that the project did not meet the development standards of a maximum of 40% total residential floor area, and that the project proposed 73% residential floor area.

Lori Nalyor, Project Consultant, stated that 17 appellants filed for view assessment on the project, that the developer redesigned the project, and that 15 of the 17 appellants withdrew their applications. She stated that the View Assessment Committee reviewed the project for view impairment concerns and recommended the Council approve the structure development permit. She stated that Staff did not find the project consistent with Title 17 of the Municipal Code or the Highway 101 Specific Plan. She stated the residential area of the project exceeded the allowed floor area, that the commercial component of the project was not the primary use of the project and that the project was not consistent with a number of development review criteria. She stated that suggestions from Staff for improving the compatibility of the project included reducing the residential floor area of the project and considering additional on-site parking for transit users, and that Council direct the applicant to re-design.

Council discussion ensued on a letter received by the City from Caltrans stating that the project had to be approved by a date certain, that there was a place holder on the agenda for the State Transportation Commission meeting in June, that Caltrans had to receive an application by the end of April and make a recommendation to the state, and that the deadline for the state to review the application was June 25th and 26th.

Mayor Kellejian opened the public hearing.

Greg Shannon, Applicant, Vice President Shea Properties, stated that the project had been in the works since 1991, that a mixed use project was approved in 1991, that there were nine goals originally adopted by North County Transit District (NCTD) and the City for the project, and that the application to the State for the grant funds was due soon. He stated that there was a need for additional transit parking, that funds had to be generated to create new parking, and that the City

had gone through numerous staff changes and interpretations of the Municipal Code.

Brian Fisch, Applicant's Attorney, Luce, Forward, Hamilton & Scripps, stated that the project complied with most City codes, and that he sent a letter to Council. He stated that the City could not require a reduction in residential units below 131 units, that the City adopted a Housing Element in 2006 after the project was submitted, and that the Solana Beach Municipal Code allowed for 131 units at the project site. He stated that the project met the zoning requirements for the Special Commercial Zone, that the developer had been working with Staff and the community on the project, and that the project could not be a solely residential project. He stated that there were several portions of the California Government Code that limited the City's ability to restrict the residential housing component of the project, and that the number of residential units should be put aside and the focus should be on the design of the project.

Michael Hiemridge, Architects Orange, stated that the project met the requirements for set backs and heights, that the scale and bulk of the project was highly taken into consideration, and that Architects Orange surveyed the project area for compliance with community character. He stated that there were a variety of buildings on S. Cedros Ave., that the height of the buildings were consistent between one and two stories, and that the project was compatible with the surrounding area based on the analysis done. He showed various photos of the existing buildings on Cedros Ave., that Cedros Ave. had eclectic architecture, that the buildings on the project were articulated, and that the project was designed to address neighborhood compatibility and scale.

Greg Shannon, Applicant, stated that there were development standards to bring objectivity to approving the project, and that this meeting was about balancing and finding solutions. He stated that Plan A had the least environmental impacts, that there had been a preference for Plan B, and that the developer would build Plan B if desired. He stated that both plans were taken to the Ad-Hoc Committee, that enough revenue had to be made in order to build the parking garage, and that the project was in compliance with all City regulations. He stated that the project included an expansion area for additional parking, that there was no funding at this time to build additional parking, that the developer was willing to make compromises on the project such as having 131 residential units, and that the developer had to know how many residential units the City wanted. He stated that he had to know what design details were desired by the City and that a project had to be approved soon in order to maintain the six million dollar grant funds.

Lisa Foster, Deputy City Attorney, stated that the applicant's attorney stated in his letter to the Council that the City was requiring the applicant to identify 800 train station parking spaces, that this statement was not correct, that the City stated that consideration should be given to addressing feasible future parking on the site. She stated that the plans submitted by the applicant did not meet the 40%

requirement of the Specific Plan, that the applicant used a different method for interpreting the figure than the City, and that residential uses were allowed in the Special Commercial Zone if used as a secondary use. She stated that the zone was not intended for primary residential projects, that Council had no discretion to approve a plan that was not consistent with the General Plan, and that there were provisions for waiving development standards but they did not apply to this project. She stated that courts had ruled that the City's interpretation of their General Plan took precedence over third parties interpretation of the City's standards.

Johanna Canlas, City Attorney, stated that the City remained in conformance with the housing Requirements, that the City met the requirements through the approval of other projects, and that the City had not made any changes in the Specific Plan or Zoning Ordinance since the adoption of the Housing Element that affected the project. She stated that Mr. Fisch was referring to the Housing Accountability Act and the Federal and State Fair Housing Laws, that those laws did not have any bearing on the project, that the project was not in compliance with the City's standards, and there had been no changes to those standards since the submittal of the project. She stated that the Ad-Hoc Committee had discussed some options with the developer on how to make the project compatible with the City standards.

Council discussion ensued with the City Manager regarding whether or not Plan B could be discussed since it was not on the agenda, whether the developer could only bring one project forward to Council, and that the applicant chose to bring forward Plan A. Greg Shannon, Applicant, stated that the City had given the developer several different interpretations of the City standards, that he wanted to find solutions, that he did not understand why Plan B could not go forward as an option, and that he had applied for an affordable housing density bonus.

David Ott, City Manager, stated that Staff had been very direct with the applicant regarding interpretation of City standards.

Council discussion ensued with the City Manager regarding notifying the applicant of the project not being in compliance with City codes and that the City Manager and Ad-Hoc had a lot of correspondence with the applicant regarding the project not being in compliance with City standards. Discussion ensued regarding the numerous ways the applicant was informed of the project being out of compliance with City codes and ways to bring the project into compliance. Johanna Canlas, City Attorney, explained requirements for the applicant to qualify for density bonus.

Council discussion ensued with Greg Shannon, Applicant, regarding the developer's willingness to assist the City in meeting requirements for the affordable housing units of the Pearl Settlement and willingness to change building facades in order to be compatible with the surrounding area.

Council discussion ensued with the Applicant regarding the designs of Plans A and B, that the developer had re-designed due to input from various Staff members through the years, and Council approving the project with conditions.

Jack Roehr stated that he was not in support of the project.

David Carroll stated that he resided on Cedros Ave., that there had been a lot of improvements in the City in the last twenty years, and that the residents had to rely on the Council to make decisions on the growth of the City. He stated that parking was a concern today and not the parking in the year 2030, that currently parking was a problem on Cedros Ave. and what measures could be taken to address the current parking problem. He stated that the grant funds should be used for a parking structure in the City.

Jim King stated that there was a parking problem on Cedros Ave. and that the project should be re-designed.

Marilyn Kalabsa stated that she supported the project, that the project would bring additional revenue and would be good for the City, and that there should be conditions placed on the project for improving it.

Carol Raymer stated that she supported the project, that it appeared the developer was willing to work with the City, and that she hoped the City and developer could come to an agreement. She stated that a traffic circle should be considered as a condition as displayed in Plan B and that this would reduce the impact of traffic on N. Cedros.

Catherine Rodman stated that she supported the project and that she had written a letter to Council supporting the project. She stated that there was no maximum density under state law and that the City could not grant greater density. She stated that the Specific Plan was inconsistent with the Housing Element and that the General Plan took precedence over other development plans of the City.

Marco Gonzalez (15 min., time donated by Alex Deyline, Andrea Pritchard) stated that parking and traffic were a concern of the project, that the goal of the project was to provide a long term parking solution for the Coaster, and that the applicant stated that there were not enough parking spaces for the project. He stated that the project did not comply with the City standards, that the project should be one that the community agreed with, and that the Council should vote with the Community.

Peter Zahn (15 min., time donated by Martin Schmidt, Lewis Martin) stated that the Council had put a lot of time in the project and had done a lot of analysis on the project. He stated that he supported a project at the train station site, that this project was the wrong project, that it did not comply with the City's standards, and that the project did not provide adequate parking. He stated that the project was

incompatible with the City. He called out a list of names of residents who he said were in opposition to the project.

Peter Lambrou (6 min., time donated by Ted Migita) stated that he supported mass transit, that he wanted a sensible project at the train station site, that the developer had not incorporated community input into the project design, and that the project was too big and massive. He stated that the developer had ignored all comments given to him, that there had been no change in the density or mass of the project, and that there was a need for more parking spaces for the future. He stated that without parking people would not use the transit center, and that he supported a sensible project at the site.

Bruce Berend (15 min., time donated by Mary Berend, Chuck Franz) stated that the applicant had wasted the Council's and Community's time, that the applicant held a workshop several years ago regarding the Cedros Crossing Project, and that he negotiated a 99 year lease with North County Transit District. He stated that there was not enough parking spaces at the site, that the applicant's trouble began with the EIR, and that the project was oversized and under parked. He stated that the applicant continued to ignore suggestions made by the City.

Mayor Kellejian recessed the meeting at 7:50 p.m.

Mayor Kellejian reconvened the meeting at 8:00 p.m.

Gerri Retman (15 min., time donated by Mary & Gary Ebert, Ira Oppen) stated that the City welcomed affordable housing, that she would like to see a project at the NCTD site, and that she arranged several small groups to meet with the developers over the years. She stated that the developer did not consider the resident's comments into the design of the project, that the residents had expressed concerns over increased traffic, the need for more parking, and less residential units. She stated that to date the only modification made by the developer was the lowering of several buildings due to the view ordinance, and that the press was negligent in representing the project.

Eric Lodge (6 min., time donated by Marilee McLean) distributed a letter to the Council from a neighbor. He stated that if the Housing Element was deficient it should not be dependent upon approval of the project, that the Council should not have to approve the project due to lack of affordable housing in the City, and that the City was currently in compliance with the affordable housing requirements. He stated that the City should not feel pressured to approve the project due to affordable housing issues.

David Winkler (15 min., time donated by Carole Brummage, Janell Johns) stated that he was a part of the Council Ad-Hoc Committee for the project, that this was an important parcel in the City, and that adequate parking was critical for the site. He stated that the City worked hard to make sure the EIR was done correctly, that

the City advanced funds to the developer, and that the City hired an architect to assist in redesigning the commercial component of the project. He stated that the STIP funds would net down to three million dollars, that the project was not in compliance with the City's development standards, and that it would be possible to approve the project with conditions which would allow the City to use the STIP funds. He stated that he suggested a conditional approval of the project, that there would be conditions that would be vague, that the project should be phased into several pieces, and that there should be a condition to add parking spaces over time. He stated that the design should conform with the surrounding area, that the elevation of the project should be taken into consideration, that the project could be conditioned for an approval, and that Council should not take blame for not approving the project.

Susan Murfin was not present when called.

Torgen Johnson stated that graphic representations of the project shown at the meeting did not represent the scale of the project and that it was difficult to understand the scale of project. He stated that he attempted to help the public understand the scale of the project with graphic representations he created, that this site was the center of the town, and that the project was out of scale with the surrounding area. He stated that the project should not be approved and that it should be re-designed.

Gordon Johns stated that there were funding shortfalls to build the project, that estimated revenues to run the project would be short by half a million dollars a year, and that the developer could not finance the project. He stated that the City was fiscally sound, that the City should have to use tax funds to support the project, and that the project was out of character with other buildings in the area.

Victoria Schall (15 min., time donated by Gene Walker, Dean Rodmich) stated that the Council had analyzed the project well, that the proposed project did not fit the community, and that the project should be compatible with the community.

Rich Tomasca stated that the City had a small town atmosphere, that the project would negatively impact the quality of life in the City, and that the San Diego Union Tribune did not speak for the residents of the City. He stated that he would support those Council members in the next election that opposed the project.

Bill Glockner stated that the City should think about what would happen if the project did not get built, that there were already parking issues in the City, and that the atmosphere of the City had changed since the project had started. He stated that anti-mansionization laws had been passed, that many people saw the City as a small town, that it appeared as though residents were not interested in the project, and that it appeared that there would be no project built on the site.

Joseph Ford spoke about how the project was being portrayed by the media and

that the press had stated that the developer had worked hard to work with the community. He stated that the developer had not taken comments from the community, that the project did not support mass transit, and that he supported a project that was consistent with the community. He stated that he supported mass transit, that sufficient parking had to be provided to those using the coaster, and that he wanted the Council to work with NCTD and the developer on a better project.

David Zito stated that just because this project did not get built would not mean that there would never be a project built, that there were zoning issues with the project, and that if there were a re-zone of the property it would have to go to a public vote of the people.

Marion Dodson stated that she had been involved with the project before 1991 and that the City had promised that there would be a development at the site when the site was chosen for the train station. She stated that the existing surface lots in the City were full, that there was a parking problem in the City, and that the Pearl Settlement involved approving affordable housing in the City. She stated that the project should be approved with conditions and that Council could ask for a re-design if they denied the project.

Kevin Spangler stated that he was a corporate business forecaster, that he was working now in construction, that there would be a lot of potential business if the project was approved, but he supported Council denying the project due to the mass of the project.

Dan Chambers stated that he supported the Council approving the project with conditions, that the City should find a middle ground with the developer, and that he supported mass transit.

Don Miller stated that the train station project was bulky and massive and that the Council should not approve the project.

Rick Hendlin stated that the City was incorporated so that the City could control land use issues, that the Council should take the input of the community, and that the community supported a multi-use project and mass transit. He stated that the City deserved a good project and that the Council should deny the project as it was currently designed.

Gary Martin (6 min., time donated by Janel Nielsen) stated that there would be a lot of layers and complexities to compromise with the developer on a re-design, that the developer did not make much progress after working with the Ad-Hoc Committee, and that the developer had economic constraints. He stated that negotiations could not be done in a Council meeting forum and would have to be done with the Ad-Hoc Committee, City Manager, and City Attorney.

Greg Shannon, Applicant, stated that it was the job of the Council to balance the opinions of the community members and that he worked hard with the City and looked forward to moving the project forward.

Council discussion ensued with the applicant on whether he would be interested in working on a compromise in order to meet deadlines, that the project would be complicated, that the developer would need more information on the phasing of the project, and that the Council had the ability to condition the project.

Council discussion ensued regarding the desire to have a project at the site, that the proposed project had some flaws, and that there had been many groups pressuring the City to approve the project. Council discussion ensued regarding laws that Council had to follow for project approvals, the work the Ad-Hoc Committee did to inform the developer of how to comply with City codes, and informing the developer to bring Plan B forward, and the possibility of phasing the project starting with the South end.

Council reviewed the work the Ad Hoc Committee had done with the developer, that the Committee had first met with the developer in August 2007, that the group reviewed the technical details of the site, that ideas for Plan B were generated with the Committee, that the applicant had not paid fees for an EIR in October 2007, that the developer had not made any changes proposed by the Ad Hoc, that Council had paid the fees for the EIR, and that the EIR was adopted with an errata sheet in January 2008.

Council discussion ensued regarding a mailer that was sent to the community to assist the community with better understanding the project, financial difficulties NCTD had, the City's commitment to affordable housing, and that there were 113 speaker in favor to re-design, 5 speakers opposed to the re-design, and one speaker was neutral. Council stated that the project was not compliant with City codes and that the City decided how it's codes were interpreted.

Council discussion ensued regarding their thoughts on the process of the project and whether the project should be sent back for re-design. Council stated that there are not a lot of funds available for parking garages and that the City was fortunate to get the six million dollar grant funds.

Council discussion ensued regarding the possibility of continued discussions with the developer regarding Plan B and that the Ad Hoc would continue to work with the developer if desired by the developer.

Council discussion ensued with Greg Shannon, Applicant, regarding whether the developer was interested in continuing work with the Ad-Hoc. The applicant stated that he needed to know how many residential units were acceptable for the project, that he was willing to work with the City, and that the developer was willing to consider phasing the project.

Johanna Canlas, City Attorney, stated that the developer had to satisfy all zoning requirements of the City, that Staff had given the applicant several ways that he could conform with the Cities requirements, and a concession had to be made by the applicant in order for the City to waive development standards.

Greg Shannon, Applicant, stated that he would be willing to consolidate the project into one parcel and that he had shown financials to the City. He stated that he did not want to waste anyone's time and that he would be willing to ask for a variance for a concession. He stated that he needed to know about how many residential units the City desired and the square footage for the units.

David Ott, City Manager, stated that the City could work with the developer on the re-design of the project, if desired.

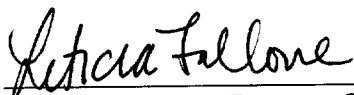
Council stated that they could not design the project for the applicant, that the community and Council had given suggestions to the developer, that the Council wanted a project that fit the community, and that by approving a re-design it would be up to the applicant to return to Council with a project.

MOTION: Moved by Heebner and seconded by Nichols to close the public hearing. **Motion carried unanimously.**

MOTION: Moved by Heebner and seconded by Nichols to approve Staff recommendation to direct the applicant to re-design the project. **Motion carried unanimously.**

ADJOURN:

Mayor Kellejian adjourned the meeting at 10:15 p.m. in the memory of Dr. David Martin.



Leticia Fallone, Deputy City Clerk
Approved: November 12, 2008