

CITY OF BELMONT
PLANNING COMMISSION
SUMMARY MINUTES

TUESDAY, JULY 17, 2012, 7:00 PM

Chair Mercer called the meeting to order at 7:00 p.m. at One Twin Pines Lane, City Hall Council Chambers.

1. ROLL CALL

Commissioners Present: Mercer, Parsons, Reed, Horton, d'Souza, Frautschi, Herbach
Commissioners Absent: None

Staff Present: Community Development Director de Melo (CDD), Associate Planner Gill, City Attorney Rennie (CA), Allison Knapp, Consultant, Recording Secretary Turning (RS)

2. AGENDA AMENDMENTS - None

3. COMMUNITY FORUM (Public Comments) - None

4. CONSENT CALENDAR

4A. Planning Commission Minutes of 5/15/12

RS Turning stated that edits that were emailed to her by Chair Mercer had already been made. There were no further corrections or additions.

MOTION: By Commissioner Frautschi, seconded by Commissioner Horton, to accept the Minutes for Tuesday, May 15, 2012.

Ayes: Frautschi, Horton, d'Souza, Mercer

Noes: None

Abstain: Reed, Herbach, Parsons,

Motion passed 4/0/3.

5. PUBLIC HEARINGS:

5A. PUBLIC HEARING – 2520–22 De Koven Avenue (Mid-Peninsula Water Tank Site)

To consider a Conditional Use Permit, Variance, Design Review and Vacation of Public Utility Easement for the installation of a wireless telecommunication facility. The project includes six panel antennas to be located on three poles mounted to the existing water tanks. The associated equipment

will be located in a detached equipment shed (enclosed on three sides) totaling approximately 202 sq. ft in size. (Appl. No. 2010-0043)

APN: 043-272-400; Zoned: R-1B – Single Family Residential
CEQA Status: Categorically Exempt, Section 15303, Class 3(e)
APPLICANT: NSA Wireless Inc, for Verizon Wireless
OWNER: Mid-Peninsula Water District
PROJECT PLANNER: Rob Gill, (650) 598-4204

AP Gill summarized the Staff Report, recommending approval subject to the conditions contained in the Resolution.

Discussion ensued.

6 members of the public spoke in opposition to the project and 1 member of the public pointed out that the main reason for the site selection is to help the people in San Juan Canyon get cellular coverage from Verizon Wireless.

MOTION: By Commissioner Parsons, seconded by Commissioner Frautschi, to close the Public Hearing. Motion passed 7/0 by a show of hands.

Ron Leithner, representing the Mid Peninsula Water District, clarified that the water tank is a hydro pressure tank that contains water pressure for the surrounding houses. The building contains 3 pumps and a generator for back-up power. Commissioner Frautschi asked him if there were any plans to landscape this site similar to the water tower site on Lyon Street. Mr. Leithner stated that it could happen, depending on budgeting and maintenance. Responding again to Commissioner Frautschi, Mr. Leithner stated that the tanks on DeKoven will be painted as soon as the project on Buckland is finished, this year or next. Responding to Commissioner d'Souza, he stated that the generators are not the cause of the noise that neighbors complain about; the noise was from a cooling fan inside the T-Mobile cabinet, which has been mitigated. Chair Mercer noticed that there are no significant trees along the north property line, which is one of the view lines in a photo submitted by a speaker. Mr. Leithner stated that the trees were removed because a neighbor was fearful of pine cones hitting his child, and they were replaced by Pittisporum. Responding to Chair Mercer, Mr. Leithner stated that there is no security issue that would prevent screening of the property.

Citing Goal 1015.7, Commissioner d'Souza stated that there are already adequate services and that the impact would be on trees in the area, visual impacts by both the tank and the towers, and noise impacts. He did not believe this is a good project and that he intended to vote no on it.

Vice Chair Parsons expressed concern about the setback and the effect of the project on property values. He did not believe the neighbors deserved to have that kind of thing happen next to them. He could not find for half of the findings required for a Variance and felt that allowing them to build on the property line would be special treatment. He could not make the findings for the Variance.

Commissioner Frautschi stated that Mid Peninsula Water needs to come up with a better approach to sharing their sites, and offered to speak to their Board about his ideas. Regarding the Conditional Use Permit (CUP,) Finding B, he felt that if the site was large enough to accommodate the use they would not be requesting a variance to go into the rear yard setback. Regarding Finding D, he believed there is a

potential impact on property values for 2518, 2516 and 2514 DeKoven, and 2817 Newlands Avenue. Regarding the Variance Finding d) he stated that this would be the granting of a special privilege since nothing else has been previously granted to any cell site provider that reaches this height, and they have never had an application that violates the setback. Regarding the Design Review, he could not imagine having a 6' x 28' thing along his property line that is painted the Mid Peninsula Water District blue. He stated that he did not want to continue the project; he would vote to deny it.

Commissioner Horton could not make the findings for the setback Variance. It is big and a chain link fence or concrete block 6" from someone's property line is not ok. She believed the property is filled already and concurred with Commissioner Frautschi that they need to find a new creative way of doing this. She understood that the federal government does not allow making findings based on RF frequency or on property values, but they can deny based on the Variance.

Regarding the RF factor, CA Renne interjected that the Telecommunications Act does leave intact substantially the local government's ability to require compliance with zoning but there is a limit and that is where a wireless carrier is filling a significant gap in their network and their proposed installation is the least intrusive means to filling that gap. He believed he was hearing that there is more than one way that this project could be accommodated on this site and it appears from the conversation that the Commission is saying that the project could be better oriented on this site.

Commissioner Herbach questioned the premise that the project is categorically exempt from CEQA. He quoted from 3E: "accessory (pertinent) structures including garages, car ports, patios, swimming pools and fences." He felt it was a stretch to go from an equipment cabinet including RF equipment and battery racks to the listed structures and that it was a misuse of CEQA to state that it is categorically exempt. He concurred that the site is not of sufficient size without the Variance and noted that utility lines are crossed every day. He could not find for D, that the proposed use complies with all conditions, and will not adversely affect other property. He questioned why the condition for a sound study has not already been done since the project cannot move forward without it. He added that the condition is impossible to fulfill because in the State of California there is no such thing as a licensed acoustics engineer.

Commissioner Reed concurred with Commission Frautschi that there is not a lot of coordination as to what the policy is for putting these towers on utility sites. He believed that in this case the site is saturated and is not appropriate and that there is no way to put an equipment shed on this site without a Variance. He could not find for the Variance.

Chair Mercer stated that the site is on "Variance overload" – this would be the fourth Variance – and that it reflects an overall lack of planning on the part of the Water District. She could not make the finding for the Variance as it would be a special privilege to give a property a fourth Variance in order to violate their setback yet again. She said that she would not deny Verizon access to the site but it is about the land use, the intrusion into the neighbor's property, lack of screening, lack of analysis of the noise, lack of offering mitigation for the noise, and the visual blight.

Vice Chair Parsons added that the large tree slated for removal now screens the tanks from a lot of people. Removal would be unacceptable, plus the way the site is located it is practically on top of another large tree, which could cause it to damage the roots, etc. Chair Mercer added that with the length of the shed there is no where else to put a replacement tree to fill that hole.

MOTION: By Commissioner Horton, seconded by Commissioner Frautschi, to deny the Resolution approving a Conditional Use Permit, Variance and Design Review to allow a wireless communication facility at 2520-22 De Koven Avenue (PA2010-0043).

CA Rennie suggested that, if the Commission votes to deny the project, they do so without prejudice to allow the applicant to revise their application and bring something back. It would be the applicant's burden to resubmit an amended application. Otherwise, he suggested that the Commission make findings for denial, if that is in fact the position that they want to move toward, and give staff an opportunity to prepare some findings and bring them back for adoption at a subsequent meeting.

Discussion ensued.

Ayes: Horton, Frautschi, d'Souza, Reed, Herbach, Parsons, Mercer
Noes: None

Motion passed 7/0

CDD de Melo and CA Rennie clarified that the appeal period will not begin until the Commission votes on a denial resolution, which staff will prepare for a subsequent meeting.

MOTION: By Chair Mercer, seconded by Commissioner Reed, to direct staff to prepare the wording for the Resolution denying this application, and to continue action on the matter until the August 8, 2012 Planning Commission meeting.

Ayes: Mercer, Reed, Frautschi, Horton, Herbach, Parsons
Noes: d'Souza

Motion passed 6/1

CDD de Melo clarified that staff will present a draft resolution for Commission review at the August 8th meeting. If the Commission takes action on that Resolution to deny, then the clock will start on the 10-day appeal period.

Chair Mercer called a recess at 8:25. Meeting resumed at 8:35.

5B. PUBLIC HEARING – 6-8 and 10 Davis Drive (Crystal Springs Uplands School)
(CONTINUED FROM JUNE 19, 2012 PLANNING COMMISSION MEETING)

To consider a Development Agreement, General Plan Amendment, Planned Development Rezoning, and a Conceptual Development Plan for construction of an approximately 60,000 sq. ft. private middle school for 240 students.

Appl. No(s): PA2012-0010, PA2011-0028, PA2011-0052; and APN: 045-130-030;

ZONING: Executive Office and Warehouse (E2.2)

CEQA Status: Mitigated Negative Declaration

APPLICANT: Crystal Springs Uplands School - Kathleen Kavanaugh

OWNER: Thomson Learning, Inc.

PROJECT PLANNER: Damon DiDonato, (650) 637-2908

Chair Mercer asked Commissioners if they had had any ex parte communications with the applicant or the property owner. Commissioner Frautschi disclosed that on June 19th he had visited the campus site and was provided a 35-minute tour of the school and had his questions answered by the Director of Admissions. Chair Mercer stated that she had two brief phone conversations with Kathleen Kavanaugh to answer her questions about Commission concerns. Commissioner Parsons stated that he had brief non-specific discussions with a few of the representatives when they held a public review meeting for the neighbors on site. Commissioners all had received emails; Commissioner Horton stated that she responded to them stating that she would not speak.

Commissioner Reed asked for clarification of what action the Commission will be taking at this meeting. CDD de Melo stated that the Commission is a recommending body relative to all entitlements on the agenda.

CDD de Melo summarized the Staff Memorandum, recommending that after taking public testimony, the Commission make recommendations to the City Council regarding the Environmental Review and project entitlements as deemed appropriate.

Chair Mercer asked for clarification regarding mention in the Development Agreement (DA) about shared use of the fields/gym. CDD de Melo responded that the applicants have indicated in public comments their willingness for the public to have access but it had not been codified in writing as of this meeting.

Chair Mercer pointed out for the public's benefit that after the last Commission meeting on this subject the Commissioners submitted many questions to staff directly, and staff's answers to those questions can be found in Attachment IV to the Staff Memorandum. As a result of comments and questions, some of the mitigations and other requirements of the project have been modified. She asked CDD de Melo to summarize the changes in the project between then and now. CDD de Melo responded that the chief mitigations that have been proposed are related to the noise impacts of the project. The City had a third party consultant prepare a peer review of the applicant's noise study and they have indicated three mitigations that they recommend as part of the project – two of them related to the construction noise impacts and the third is related to the on-going operational impacts associated with the construction of a pool.

Allison Knapp, Consultant confirmed that from the onset there have always been three mitigation measures identified for the pool use, which were discussed at the public hearings, in the staff report and in the environmental document. She summarized these three measures and confirmed that a 10' sound wall is being required.

Chair Mercer asked for confirmation that in the most updated application the cut and fill for the project total has now been balanced completely on site so that there is no on and no off. CDD de Melo stated it is proposed to be balanced but he was not sure if the Public Works Department has had the opportunity to confirm that; he deferred to the applicant's engineer.

Chair Mercer asked for confirmation that they now stand at 81 replacement trees – so that every tree is being replaced as a minimum. CDD de Melo responded that there is not going to be a deficit in terms of the 1:1 ratio.

Responding to a question from Chair Mercer, CDD de Melo stated the applicant has made a concerted effort to make a better DA for this project, which is what is before the Commission at this meeting.

Representatives from PG&E made a presentation regarding safety measures being taken and answered questions from the Commission. Commissioner d'Souza asked that documents referencing regulator stations and arms and shut-off valves be forwarded to staff for his review.

Staff from Crystal Springs made a presentation and answered questions from the Commission. City staff also answered questions from the Commission.

Chair Mercer opened the Public Hearing, asking that speakers limit their comments to two minutes each. There were 14 speakers in favor of the project and 10 opposed

MOTION: By Commissioner Reed, seconded by Commissioner Frautschi, to close the public hearing. Motion passed 7/0 by a show of hands.

Chair Mercer called a recess at 11:10. Meeting resumed at 11:15.

Commission Comments Regarding the IS/MND Commissioner Reed could not see any major issues with the project. He believed it is an improvement on what is there now – it is a less intense use of the land, will look better and noise can be mitigated. A wall around the pool will mitigate a lot of noise. Traffic would be an issue no matter what – if the buildings were fully leased something will be built there sometime. He could not see a viable reason why anything negative environmentally.

Commissioner Herbach had thought noise from the pool would be a problem in terms of intensity as well as in terms of monitoring it, but now that he hears that the pool will be enclosed he did not see a noise problem. He did not see a noise problem from the field – 216 potential students pale by comparison to the number of students at Ralston Middle School, especially now that that school is increasing by 275 people. He was not at all concerned about the transportation and the traffic issues. Mitigation measures are proposed. Extensive monitoring over the course of 6 months and corrections will be made as necessary. The loss of trees is fully in compliance with the Belmont tree ordinance – trees will be replaced 1 for 1 and the applicant has agreed to pay \$180,000 plus or minus for tree replacement up to 3 to 1. He felt that the applicant had been totally responsive in all the other areas. If there's any doubt about hazardous wastes, they have specialists prepared to take care of it. He had no problem with the IS/MND.

Commissioner Horton stated that her only issue is traffic. She did not believe there are any mitigation measures that will solve the problem of 6000 students moving around in a very short window of time, and adding another school is not going to help.

Vice Chair Parsons believed there were too many loose ends. He stated that he does not have much faith in the California CEQA process; he believes the standard the State holds as acceptable is different than what the people of Belmont hold. He questioned if the suggested shared use of the tennis courts, pools, gyms, and conference facilities has been adequately addressed in the traffic and noise studies in the document and felt that it was pretty obvious that the sound study is deficient. He could not support the environmental document.

Commissioner d'Souza believed that there are a couple of issues with the environmental impact statement, concurring with Vice Chair Parsons' comment. He stated that it is possible that the noise would be mitigated if the pool is covered or has a sound wall. He agreed with one of the businesses that keeping the jobs here would reduce the air quality impact for Belmont but did not know how they would be able to keep the jobs here. He agreed that this project has the lowest traffic impact of compatible uses and thought that the applicant had done well in terms of trees and waste and some of the other environmental issues.

Commissioner Frautschi thanked the applicant, community and staff for all of their work in analyzing and producing the MND. He considered it to be a working tool that can be used later on to flush out the issues and propose mitigations. After watching a film by Eric Dentler he was not completely persuaded about the wisdom of leveling the site of its current buildings and totally removing the vegetation, and he was not convinced that no nearby intersections will be expected to deteriorate to traffic levels of d, e and f; it will worsen the local traffic and the cross-city traffic by the addition of more out-of-town regional traffic. He also had concerns about the incompleteness of the noise study. He had lingering and nagging reservations but was willing to hesitantly support a recommendation for the MND to Council.

Chair Mercer stated that, with respect to the MND, she could find for it and recommend it to Council. She concurred that there is a traffic problem and it does not help the City with respect to the inevitable improvements needed on Ralston at Davis, not because of this project but because of other public schools and because of the potential increase of usage at the existing Davis Drive sites. She stated that the City will eventually need a right-turn lane to eastbound Ralston because of future intensification, and she foresaw a problem looming for the City. With respect to noise, she stated that it is true that the sports uses will be just 1500 feet from homes across the canyon and the noise analysis probably needs some fine tuning, but reminded that up until 10 years ago the PJCC pool was also an average of 1500 feet from the Wakefield homes. That pool had no noise mitigation and was open 6 days a week for public use. Because she remembered the noise from that pool she shared concerns that the proposed mitigations may not adequately address impulse noise for the pool and the noise affecting the canyon, but felt that the MND is recommending the maximum that can realistically be done. She added that she may look to additional subsequent mitigation to pool noise from the DA to have some sort of guarantee if the noise doesn't turn out the way the MND says it will. With respect to the trees, the clean-up of the site, and the reduction of the hardscape, she could find overwhelmingly that this will be an improvement environmentally for this site and could make that recommendation.

MOTION: By Commissioner Reed, seconded by Commissioner Herbach, recommending City Council adoption of a Mitigated Negative Declaration of Environmental Significance and a Mitigation Monitoring and Reporting Program for the construction of a private middle school for Crystal Springs Uplands School located at 6-8 and 10 Davis Drive APN: 043-340-170 & 043-340-180 (Appl. No. PA2012-0010, PA2011-0028 and PA2011-0052)

Ayes: Reed, Herbach, d'Souza, Frautschi, Horton, Mercer

Noes: Parsons

Motion passed 6/1

Chair Mercer explained that Davis Drive currently has a land use designation of Office, with a zoning of E2.2 (Executive Office and Warehouse). For the school to be allowed on the site, the City must change the General Plan (GP) and the zoning and staff and the applicant suggests a GP designation of Institution and zoning of Planned Development. The Commission does not approve or reject a GP amendment, but merely makes a recommendation to the City Council and to recommend an amendment the Commission must find that the changes are “required to achieve the objectives of the Zoning Plan and the GP. CDD de Melo interjected that that is for the PD and Conceptual Development Plan (CDP) and that if the Commission is of a mindset to support the GP amendment the finding is that the proposed GP amendment is required to achieve the goals and objectives of the City. Relative to the rezoning to PD and the associated CDP, they need to indicate whether the project achieves the objectives of the Zoning Plan and the GP for the City. Additionally, there are 5 findings for the CDP.

Commission Comments on 3 Development Entitlements: GP, Zoning and CDP

Commissioner Frautschi stated that he could not support the one finding for the GP – that the change would achieve the goals and objectives of the City. He noted that he had quoted City Finance Director Thomas Fil, who cautioned that a non-profit, tax-exempt private school “may result in the loss of business-to-business sales and use tax, unsecured inventory taxes, business licenses taxes, and spin-off taxes. It is unclear if this would represent the highest and best economic use of the property.” He reminded staff that he had told CSUS at the last meeting that they had to make it very clear to him that this particular question was answered, and he did not think it had been answered in the affirmative so he could not support the balance finding later on.

Commissioner d’Souza stated that he could not support the GP change, noting that the applicant has not responded to the annual payment analysis on pages 3 and 4 of the Staff Report. One of the answers was that they cannot negotiate with every agency. As noted by staff, the land development rezoning does not insure compatibility of uses for traffic, parking and noise, which could be detrimental to the existing uses, but he thought the impact on public schools is much larger, especially the \$36,000 to the elementary and middle schools and the \$8,000 Finance Director Fil has identified for public education. He referred to the Chamber’s referral to an increase in sales tax revenue, but that does not fund schools – 1% goes to the transit district and 6.5% goes to the State. None of the money would trickle back to Belmont schools and he believed that parents buy property in the area based on the public schools, not the private schools. He could not justify a GP change from commercial to institutional.

At Commissioner Parsons’ request, CDD de Melo displayed a power point map that shows the location of non-profits in the City. He stated that tax-exempt parcels constitute about 540 acres, 186 acres of which are schools, and 157 acres are non-exempt parcels. He added that there are two current schools that do pay property taxes but there are a total of 14 schools.

Commissioner Parsons commented as follows. He had asked to see the map because, as planners, the Commission needs to look at the big picture. Belmont, like all the rest of the cities in California, is in deep financial straights and non-profit facilities are a major land use in Belmont. He added that very little of the real estate tax bill comes back to Belmont, the State recently took the City’s redevelopment funds, and now the State has funding for the high-speed rail. The preferred alternative for that project calls for bypass tracks going through Belmont, which means the City would lose a lot of businesses and tax revenues during construction and probably permanently after construction. He believed that these

properties on Davis Drive are underutilized now but eventually will be utilized again in full force with the potential for high-tech companies with a lot more revenue coming in. He added that Finance Director Fil has pointed out that there are a lot of other sources of revenue that come from those kinds of properties that will be lost if this property becomes non-profit. He further stated that Belmont does not have the money to take care of its streets and sewers and has been able to keep its Police and Fire Departments thanks to a very intelligent City Council that has made some good decisions. He could not see that rezoning this property would do anything to achieve the objectives of the Zoning Plan or the GP of the City of Belmont. On the contrary, he believed it would throw the City budget out of balance and contributes to a crisis down the road; he could not support a zoning change.

Chair Mercer read the following statement into the record: *Her thoughts were structured around the questions of contributing to a balanced community, scale and character, the City founders' vision for the property, and the revenue potential. The first GP goal will be to insure Belmont will be a balanced community. Will it short us on office space if we give up this office space? Since the GP was written in 1982 we've seen the development of Clipper Drive office building and several Shoreway Road office buildings. There are development plans for the 8.6-acre Shoreway Place office buildings, which will eventually include an office tower with 270,000 square feet of office space. In fact, every commercial CL1, C3 and C4, manufacturing and executive zone in the City allows office space. That's all of El Camino Real, all of Old County Road, the Old County Road industrial area, Shoreway Road and downtown, even Carlmont – all those zones permit office space and also permit development to a higher intensity than currently done. So I don't see this shorting us on office space. But do we already have too much institutional land? What we are really asking is do we have too many non profits? It's not that it's zoned institutional, the challenge being put in here is that we have too many non profits. Maybe so, but the E2.2 zoning is not in itself a protection against acquisition by a non-profit agency. Until recently the County rented office space on Davis Drive. If the County had decided to purchase there the City would be in a far worse position with no tax revenue and no DA. Zoning has nothing to do with tax status of the property owner – non-profits can buy anywhere and set up business and pay no taxes and if they're operating within that zoning use there's no DA. To be fair, with the exit of PJCC ten years ago the City actually has less institutional land now than it did in the 1981 GP. So I think it would contribute to a balanced community. The first GP policy is that "development should be of a scale and character compatible with the surrounding land uses and Belmont's small city environment." Scale: let's look at scale: E2.2 allows for an FAR of .45 which translates to this site to a building of 127,000 square feet accommodating....The current building can accommodate 300 employees, the site could accommodate far more than that. The GP calls for less intensity of development on the hillsides so, yes, a PD zoning is definitely required here to protect the small city environment and the scale of the area. Character: in the GP, Davis Drive is considered part of the Western Hills District – that's how it's defined – and for the Western Hills the GP calls for low-density residential, open space, park, school and office. At her request, CDD de Melo displayed a power point zoning map showing the Western Hills area and the subject parcel on the zoning map. The GP calls for that to be low-density residential, open space, park, school and office. So lets look at what the city's goal is for offices – goal 2025.1 is to provide space for commercial activities in locations with good vehicular, bicycle, and pedestrian access, availability of public services, adequate parking and compatible adjacent uses. Davis Drive is the only office warehouse site in the hills – it's an island of commercial in the middle of residential districts, flanked by two existing schools and lots of open space. It's out of character. The site is not convenient for warehouse access. We don't want large commercial trucks on Ralston. Commercial uses belong near freeway and transit access and that's in fact what our GP says. It's not well served by public transit for employees so we're always going to have all of those employees that everyone wants in the City are*

going to always be driving there. I find it is office use that is out of character here, not schools. Founders Vision: it seems that when the City inherited this land from the County it was already developed with offices and that our current zoning was established in the 60's to basically memorialize that fact and to insure that it was never developed to a full blown commercial retail use – we didn't want a mini mart or a shopping mall so we zoned it E2.2 to memorialize that we have offices here and no commercial and we've got this warehouse. This is the only district in town where, because there was a warehouse there, we created a zone called E2.2- That's office and warehouse, by the way, because it was there. In hindsight, if we were the original founders of Belmont and we had open hillsides and we inherited all of this land from the County that was opened and all of our adjacent properties were zoned R1, as they were back in 1960s I'm confident that we would not have purposely zoned an office district in the middle of those residential hillsides. You think it's normal because it's always been there – would you have planned it if you were God in designing this? No.... Finally, I look at revenue potential. And while I maintain that revenue potential – the tax status of the property owner is not a basis for zoning a property but furthermore if tax revenue potential is to be the new criteria by which we decide land use then I went to put the Sports Complex back on the table. That commercial parcel next to a highway, next to a high-density commercial development between a car dealership – that commercial parcel has the potential to generate \$500,000 a year in tax revenue. The site is completely inappropriate for a youth recreation facility next to a freeway – air pollution – clear across town from the majority of our housing, which virtually dictates that the parents drive their children to and from up and down Ralston Avenue generating hundreds of car trips for each and every single event. That one parcel could hold office space equal to all of Davis Drive and generate half a million in tax revenue a year to boot. So is this the highest and best use for Davis Drive? I don't think that's the question. Because if the City was always asking the highest revenue and best tax purpose for every zoning decision we would not have that Sports Complex – we would not be spending half a million dollars a year for the privilege of having it. So let's be honest about the tax revenue trade-off. What if Facebook did want to develop Davis Drive? Dream comes true – Facebook lands in our lap – would we think the tax revenue on that site was a good tradeoff for the 1,000 to 2,000 employees that that parcel could accommodate? Double that for the car trips because there's no public transit – they're going to drive- 50% denser development on the canyon right next to our middle school – would we like that – would we think that was appropriate – would we all rush to embrace that? So I can find that this is an absolute outstanding improvement in our zoning and the fact that the applicants have offered to mitigate the revenue lost sweetens the deal. We're not talking about them paying as much sales tax as Facebook or as much property tax as we could get off of the Sports Complex – but they're going to pay more direct dollars to the City than the current property does by far. So I can make the finding for the GP amendment.

Commissioner Horton asked for confirmation that they are discussing both the GP Amendment and Rezoning. She then stated that she is a strong supporter of small private schools, but she could not make the findings for the GP amendment or the Rezoning. She believed that the Chair had taken liberties with the GP; she did not believe it supports the proposed use. It says that they need to insure a balanced community and she did not believe that 14 schools is a balanced community. She quoted a previous applicant's consultant who stated that "Belmont is Education Central." She did not believe they want to be "Education Central." She noted that residents cannot leave or return to their homes due to traffic – it is totally imbalanced with 6,000 students trying to make their way back and forth on side streets, trains and shuttles, even limos. She could not support a project that rezones a portion of Belmont's only office park. Her vision for years has been to put the Sports Complex on this site and then put a big box, revenue-generating retail store at the current Sports Complex site. She believed that taking the only

parcel that is completely zoned as one office park entity and using a chunk of it for institutional use would hurt the City in the future, and it is the Commission's job to look at the big picture in Belmont – not just today and not at this application but what it means to the City in the future, how it will impact the city at large. She could not make the findings for a balanced community or for the rezoning.

Commissioner Herbach said that after reading both staff reports he divided his concerns into two groups – one was fiscal and the other was all kinds of concerns that need to be addressed in a CUP. He believed the fiscal issue had gone away since the project is apparently in excess of \$135,000 above the revenue-neutral project. He thought Finance Director Fil's concern about the highest and best use was admirable but did not believe they would ever get there. He pointed out that 1 Davis Drive is filled with the County of San Mateo leasing the space for 10 years with no tax money coming in. If the County were to buy the site there would be no DA and no tax money coming into the City. It was 30 years ago that Atari and Oracle started there but these are not currently Class A buildings. He added that the other concerns raised in the staff report pertain to future problems, such as traffic and noise, and did not disagree with the need for a CUP but he disagreed with drawing the conclusion that we can't change the GP because we'll have a CUP – that's circular reasoning – the CUP can be done at the same time as a DDP. Regarding a balanced community, he questioned whether a balanced community meant there are too many schools or too few schools or does a balanced community mean there are too many non-profits. The applicant may be a non-profit but they plan to give the City of Belmont \$175,000 per year. He did not believe it is relevant that the applicant is a non-profit; there's a profit to the City of Belmont. Referring to a possible loss to other agencies as referred to by other Commissioners, he believed his job as a Planning Commissioner is to look out for the City of Belmont and noted that they had not received any communication on behalf of these other agencies, so he was not sure they needed to be looking out for them. He called attention to the fact that the applicant is replacing the trees they are taking out in kind and will also pay fees for a 3-1 mitigation, or about \$188,000. He contrasted that to the fact that as part of the Ralston Middle School project, the Belmont-Redwood Shores Schools District tore out 26 trees, failed to get a permit from the City, failed to make any indication of replacing those trees on site, and they failed to make any kind of monetary contribution to the City. Based on the fees to be paid by CSUS, the loss of those 26 trees computes to a loss of \$50,000-\$60,000 to the City. He therefore found it hard to defend their \$29,000 loss per year when they are not looking out for the City. He called it a clear violation of law. Regarding surrounding land use, he noted that there is a school on one side of the current Davis Drive site and it is surrounded by residential, which is the way schools should be. He was not sure how to define a balanced community and believed that it is subjective. He was not convinced that you can have too many schools or religious institutions in a community but you could have too many massage parlors or marijuana dispensaries. He thought he could make the findings that the GP amendment is fine and that staff's assertion that there are future problems that can be addressed in a CUP which can be done at the DDP stage and not at the conceptual stage; they're putting the cart before the horse.

Commissioner Reed commented as follows. The current owners of the properties are in serious financial trouble. They are \$5.5 billion in debt, their bond rating has been cut to one above junk status by S&P and Moody's, and they lost \$108 million in the first quarter of this year, and they recently wrote down the property's value by \$6 million. It will go on the market soon. He believed that if CSUS were not in the picture a new buyer will likely demolish the buildings and what is there now is not what will be there in the near future. The buildings were built in the 50s, 60s and 70s, they are not Class A, the notion that someone like Facebook is going to relocate to the middle of nowhere with nothing around it is extremely unlikely, and there is not likely to be retail sales tax, occupancy tax, inventory tax there. He could not see

it ever being maximized for as a single office park but believed changing the GP designation would be the right thing to do. A developer would want to maximize the value of the property, which means greatly increasing the number of people who could work there; traffic will get worse, no matter what. He did not see a reason to be concerned about the fact that CSUS is a non-profit. The City will be paid \$175,000 per year adjusted at the same rate as Prop 13 properties, which he believes is more than the City would get under any other development opportunity, plus a one-time payment and local building fees, taxes and local workers. He did not agree with the methodology used in the City's economic analysis. He did not see that budgets would have to increase if this is built, noting that there are already schools that do not pay for the Safe Schools program, so he thought that was a questionable expense to attribute to CSUS. If one believes the City's analysis, this is revenue positive. If one agrees with him that the City's costs are really not going to go up hardly at all it is a huge revenue enhancement over what is there today. He believed that CSUS is a great fit for the site, they would have a very low impact on the environment, the community would benefit through the use of the soccer field, and they are willing to mitigate what seems to some to be a problem. He added that this school is ranked number 17 nationally by the *Wall Street Journal*. He also believed that saying "no" to CSUS would send a horrible message about economic development in Belmont, which is "Don't bother – it's too big of a problem." He also believed that economic development must focus on NDNU and Oracle, not up on Davis Drive. I thought that they had seen evidence that traffic and noise can be mitigated and that the PG&E pipe is a red herring. He believed that if high-speed rail does reduce the taxable base it would have nothing to do with this project. The biggest negative that he could see would be the loss of significant property tax revenue and the public schools will lose out. He said that he is 99.9% behind this project and could get the extra .1% if there was a way to make the schools whole. He would suggest that the City give that money to the school districts but he did not think that would happen unless it is memorialized and agreed to on paper.

In preparation for taking a vote, CDD de Melo explained that if Commissioners are not in favor of a GP Amendment and not in favor of a Planned Development Zone change, they most likely will not be in favor of a CDP associated with those two entitlements. Commissioner Horton stated, however, that because they were asked to do it in a different way some had discussed everything and some had not.

Chair Mercer suggested that, rather than making a formal Resolution, they simply take a poll of whether or not each Commissioner could recommend just the GP and the Zoning. Commissioners voted as follows:

Reed – Yes, Yes
Herbach – Yes, Yes
Horton – No, No
Mercer – Yes, Yes
Frautschi – No, No
d'Souza – No, No
Parsons – No, No

CDD de Melo concluded from the Commission's deliberation that they are, by a 4-3 majority, confirming that the proposed GP Amendment is not required to achieve the goals and objectives of the City, and that Rezoning of the subject property to PD does not achieve the objectives of the Zoning Plan and GP for the City. He asked if he could that as a consistent vote for the CDP. Chair Mercer responded that Commissioners would like to make some individual comments, assuming that if the Council ruled differently on the GP and Zoning, they would want the Commission's input on the CDP.

Commissioner Horton commented that the CSUS proposal is wonderful and well-designed but her issue is that you don't take a piece out of a big parcel and make it a different zoning district. She also had an issue with the parking. The owner of this property said that they were going to use their auditorium for meetings, and an auditorium would require more than 40 parking spaces. She did not believe there were enough parking spaces and felt that an auditorium would trigger a requirement for more parking.

Commissioner Herbach stated that he had no problem with the CDP. To address the question, clearly the owner of the adjacent property on the other side of Davis Drive, who would be using the auditorium, would be using the overflow parking that CSUS would be using.

Commissioner Horton commented that any parking agreement would be off the table if the property sells.

Commissioner Reed added that this is a beautiful project that would be a big improvement over what is there now.

Commissioner Frautschi could not support the CDP for Finding 1, which is that the uses proposed will not be detrimental to the present and potential surrounding uses. He was concerned about the impact of a private school on what is currently there. He is not working in a future reality, but on what's going on now. Regarding Finding 2 having to do with streets and thoroughfares being suitable and adequate to carry anticipated traffic, he questioned the contention in the previous staff report that the project will not create any significant traffic impacts. Sitting in traffic or waiting on an exit feeder road might not be technically significant by definition but it is significant to the Belmont driver who is stuck in it. In his opinion, adding 140 additional private cars, 40 teacher cars and various shuttles to Ralston Avenue are substantial. He believed that the Traffic Demand Management (TDM) program is a nightmare. He stated that the potential mitigations that are currently being proposed are distasteful to him. He believed it would involve the taking of private property at the corner of Davis and Ralston because he was certain that when the City widened Ralston Ave. it went almost to the extent of its easement. He also hates the hardscaping of Ralston. Regarding Finding 4, economic impact, he questioned why the City should take any potential economic impact resulting from the development of a private business. It was his understanding that only 90 BSUS students in the last 60 years came from Belmont; he would hope there would be more if they locate in Belmont. Regarding the finding for off-street parking, he commented that if the project goes forward, the parking agreement they have with the business should have clauses about what will happen if it is cancelled. He could not support a recommendation to Council for Findings 1, 2 and 4 of the CDP.

Commission d'Souza could not support the CDP. He agreed that it is not compatible with the other nearby uses and creates impacts for the other uses. He believed the TDM is a fantastic program and liked the overall building design and how it is laid out relative to issues of energy and waste. He stated that they need a good parking agreement. Regarding the economic finding, the applicant has been really generous, but believed it ended up robbing Peter to pay Paul. CSUS says Belmont can do whatever it wants by giving it to the schools but with the City's financial issues there is little chance that it will trickle back. He agreed with Commissioner Frautschi that they cannot take away from institutions like our public schools, which is a substantial investment in 1200 students, more if you count Redwood Shores. The benefit is for 24 students – that doesn't add up. He could not make the CDP findings on that basis.

Commissioner Parsons commented that this is a great school, and under different circumstances and probably at a different location he would be all in favor of the project. He noted that this would be a dense campus and that the school has more open space and a lot more parking at their current site in Hillsborough. He believed that there would be people other than faculty and students using the facilities – not just the ball fields but perhaps the tennis court, gym, swimming pool, and the conference room. Even if that was not allowed, with 40 teachers and the number of parking spaces, there will be parent/faculty meetings, graduations, other kinds of things where they will need more parking on a daily basis than they have and to have to depend on somebody else does not make sense. He stated that he would be more supportive of the project if they acquired a little more land or perhaps eliminated the swimming pool in order to handle additional parking. He concurred with Commissioner Frautschi regarding the findings, adding that if there is to be a CDP here he would want a CUP tied to it because there are too many loose ends on what's been promised and what's been said in one document and what hasn't been said in other documents.

Chair Mercer stated that there are a lot of positives in the CDP, such as the sustainability of the project, the environmental friendliness, the lower FAR, the reduction of hardscape, the solar energy. Sticking points for her were a need for clarification of ancillary activities and the conditions attached to those, such as use of the auditorium, and she thought they were being too optimistic with respect to parking demands and did not think it is realistic to believe that the 40 or so parking spaces or a contract can accommodate all of the parking. She concurred that the CDP should contain a CUP and the applicant agreed with that. She thought the project is a terrific CDP, she could not recommend it in its current form because of the lack of assurance of the traffic mitigation, noise problems, parking, and a lack of definition of the ancillary activities. She thought these problems are resolvable but could not recommend the project in its current form.

CDD de Melo verified that Commissioners Reed and Herbach stated that they are in support of the CDP as presented. By a tally of 5 to 2, the Commission is not able to make the five findings associated with the CDP as presented.

CDD de Melo stated that the next step is the Commission's assessment of whether they believe the DA is consistent with the GP.

CA Rennie stated that the Government Code is not specific as to what the planning agency's role is in the DA other than holding a public hearing, but it does indicate that the City Council has to make a determination that DA is consistent with the GP. He proposed that Commissioners focus their comments on the consistency of the DA with the GP, and form their recommendation around that. Commissioner Herbach questioned if the CA is speaking about the GP as it currently exists, or the amendment that the Commission turned down. CDD de Melo stated that staff has presented a number of GP goals and policies in both staff reports on this project. CA Renne added that part of the application is to change the land use to allow institutional use – he believed they would assume that, but they would also be looking at the larger GP consistency with the policy and goals of the GP.

Commissioner d'Souza stated that he feels what he has already said applies to the DA.

Commissioner Frautschi made the following comments: *He could not recommend to the City Council that they accept the DA offer as it currently is. He could understand why the concept of a base level for fiscal neutrality might be offered as a possible starting point for negotiations, however, with the*

unpredictability of real estate markets the actual income and tax potential which might eventually result from the sale of the property to a taxable entity unfettered by the 2% per annum CPI cap led him to think that the DA is not in Belmont's best interest, or maybe even possibly the highest best economic use. He questioned whether the GP goal of 2025.2 to promote commercial development which meets the needs of local residents for convenience goods and services and which is fiscally beneficial to the City is accomplished by this DA, and he questioned whether the GP Goal 2026.9 states that commercial office uses such as executive administrative offices storage and distribution shall (not "should") be concentrated in the existing offices at Davis. He read that if you rezone the entire zone all at once it's ok but he did not think that one should piecemeal rezone it. He reiterated that he is hesitant about the loss of one quarter of our executive zoned area and additionally, in this DA, there are a number of issues covered by the proposed agreement which, in his mind, bear further scrutiny, particularly rezoning to institutional with a commercial overlay. That was one of the proposals by the applicant – to keep uses from the economic into the institutional use for the PD and that is a totally silly idea. I could think of a million things that would go wrong if we did that. I know you were trying to answer my concerns about rezoning but that is not a good idea – it's one thing or the other. The Safe School program calculations – he still does not think it is worked out. Also, about the consequences of avoiding the parking agreement – your contention is that through your DA we always have a fallback because we have parking in Hillsborough and we can shuttle over. That's not good enough for me – I want more security than that. And there's a problem in the DA about traffic upgrades under the notion of fair share. I think you and the City are still fighting about what fair share is and means and I think a clear determination has to be made about that. And the traffic demand management program – it speaks of penalties for non-compliance but there's no further – what is the penalty, is it a financial penalty, what is it? That needs to be more clearly defined – if it's not in the DA then you have to be prepared that that would be in a CUP. And finally, something that occurred to me about the pool and performance standards, those will be covered probably by a CUP but particularly in the DA there's been no approach by you or the City to determine City liability – who is responsible if somebody drowns on a weekend? It seems like an agreement like that that you're trying to work with the City to protect you both and have a clear understanding – I think that's important to have that there. I just wanted to say that I like your project – it's a beautiful project on a beautiful piece of property, but like in all marriages one has to work out things that don't work. Ultimately the project is a Council policy decision and where all the elements will be balanced in light of what you can or cannot do for Belmont, and I know that a DA doesn't speak to this but in an initial discussion I had with one of your board members I was asked and deferred and I didn't answer the question at the time. What is important to Belmont? I'm now prepared to say that in my opinion Belmont has to have viable economic and commercial development sites wherever they are – we also want enhanced recreational and sports venues and renovated school sites, which are currently happening for us at Carlmont, Ralston and Fox schools, but first and foremost any and all of these things – it has to serve Belmont residents in the broader Belmont community. Speaking to Miss Richards, one point that you brought out to me today which I found was totally interesting is that students in your school come from 34 cities and 5 counties. I think that's great, however, Belmont currently provides a lot of services regionally – we have a school for dyslexia, we have schools for a broad spectrum of Catholic kids, we have a university. What I'm trying to say is that people tend to blow them down to money I suppose – no DA is going to answer the real question that overrides the whole project and it's about balance for our community. Everybody has a different idea about what balance is – and in my mind it's different than the other Commissioners. I just wanted to say, I do appreciate all the effort you've done in coming to us. I hope that your next round with City Council is helpful to you and I'm sorry that I have not been able to recommend this project. If it had been someplace else he would have

jumped at the chance – I don't think there's anybody here that's denying the mission you do and what you do and it would be nice to be a part of that but we have to look at a lot of other things.

Commissioner Horton stated that she did not spend a lot of time on the DA since she could not get there. She reiterated that she believes it is a great project and suggested that it would be great if another school would leave Belmont and BSUS could take its place. She agreed with Commissioner Frautschi that it is dangerous for the future to take a chunk out of a zoning district and not something the Commission should be doing.

Commissioner Herbach had initially been prepared to say that he supported the DA. He thought it was fiscally positive and that many of the issues raised could be addressed in a CUP at the Detailed Development stage, but since the amendment to the GP has been turned down he could not support the DA against the original GP.

Commissioner Reed stated that he believes that this project represents an absolutely phenomenal deal for the City that it will not get if the property is left as is. The property will be dumped at below its current valuation to somebody and the City will lose out. This is a wonderful opportunity to generate revenue for the City that it will not get elsewhere. He thought it was almost like fiscal malpractice not to approve the DA. The notion that some other developer is going to come in and give the City what CSUS is offering is preposterous.

Chair Mercer commented as follows: She is pragmatic like Commissioner Reed. She looked at two GP goals: 1016.7 providing that necessary public services can be provided within the framework of planned capital and operating budgets of service agencies, and 2045.5 which is to allocate the cost of providing public services to new development according to general principal that property benefitting from services should bear the cost. The applicant has offered to offset all direct costs cited by the City - \$117,000. In fact, this DA offers more than adequate fiscal neutrality with respect to funds that flow directly to the City. The \$40,000 earmarked for youth on top of that makes up for tax revenues for our elementary school, and the use of the field is icing on the cake. She thought they all needed to keep in perspective the fact that the actual tax revenues right now for the property in total, only 10% of that goes to Belmont – a measly \$20,000, add in all the other school things, etc., we are still looking at fiscal neutrality even with respect to the current revenues that we are getting. She did not think it is Belmont's purview to extort revenue for the other tax districts. Guessing possible tax revenues from some wanna be wish, hope we could someday dream, business might come there with the current E2.2 zoning, we have just as great a chance of landing an office use with zero mitigation in that building, or a non-profit with zero revenue, and zero ability to extract mitigations from them. So if you want to talk about potential tax revenue, if the City really values tax revenue more than education and playing fields, if its really all about the money, then I want to start discussing the Sports Complex and a half a million dollars a year in tax revenue that that is costing us. So financially, I think this is a great deal and the City ought to jump at it. As with the CDP there are a few sticking points I think that still need to be worked out so I couldn't recommend it on the whole right now but financially I think it's a no brainer – it's an absolute win for the City. The sticking points are the traffic, even though CSUS will not be the sole source of increased traffic on Ralston, the pragmatic fact is that the City has no money for the necessary improvements and we have no mechanism by which to demand money from either Ralston School or the other Davis Drive owners – who, lets be honest – they are going to be the bulk of the traffic – its not this project. It's the other projects. But we have no mechanism by which to demand money from those other projects. So this intersection needs improvement – the City has ignored it for too many years and fair or not fair it would

really strengthen this DA if the applicant could make a firm commitment towards this. Likewise, we have the problem with the parking agreement. I think the applicant needs to acknowledge the reality of parking and all the people driving there. With respect to pool noise, the jury is still out on whether walls are adequate mitigation here. We could study it further and find maybe we need more mitigation. That's not clear. So I would suggest that the DA address the potential measures that would be taken if the pool were subsequently deemed a noise impact. But I also want everyone to consider this: the City pays \$21,000 a year to use Carlmont pool for 7 summer weeks – it's the only pool at our disposal. Unenclosed use of the CSU pool for City recreation would be out of question because of concern of noise for the Canyon – it's not fully enclosed – the City would not want to be using that site. But fully enclosed there is a potential for City benefit from Rec. Department use – it could replace the mourned PJCC pool and that would be a significant City benefit at very little additional cost to CSU. Let's be honest – the 2% annual increase is not in line with reality which is often quoted as 3%. And because we're not getting additional sales taxes or other business taxes on this property, which would compensate for inflation, our only way of compensating for inflation is that annual percentage increase so I think 3% might be something more in line with what the City could accept. But those are small compared to the overall I think win of this DA so while I can't exactly recommend it I actually think we will live to see a project on that site with a far higher impact – potentially 1,000 cars coming in and out of there – or potentially less economic advantages for the City with no playing field, no recreational facilities. So I hope the City will not entirely walk away and turn their back on this because be careful what you wish for – you might get it.

Commissioner Parsons stated that his answer is still “no” – he could not support the DA as written if they were to go ahead with the project, mainly because he did not feel qualified to deal with the fiscal realities. He believed there are far better people in the City's financial office who could deal with that along with City staff. He was concerned that they are talking about a school here and yet everybody is “poopooing” the fact that there are taxes that go to our schools. Belmont would be nothing without good public schools and he believed that needs to somehow be addressed in the DA. He added that there are a lot of uses that have not been identified in the DA that have been discussed as perhaps being perks for the City. Those need to be in the DA. He concluded that he cannot support the DA as written.

Chair Mercer added that the total funds in this DA add some to what the City and the schools are getting now but the way it is written it all falls to the City. It does not spell out how the public schools would benefit out of the total chunk of money – it doesn't require the City to share any of that with the schools or anyone else.

To summarize the Commissioners' comments, CDD de Melo stated that he heard 6 Commissioners indicate that they believe the DA is not consistent with the GP and 1 that believes that it is.

Commissioner Parsons clarified that he had said he did not feel qualified to recommend it. He has concerns.

Chair Mercer clarified that she believed it is consistent with the GP but she could not recommend signing off on it as is because there are a few sticking points that need improvement.

CDD de Melo restated that the DA that has been proposed as part of this project has 6 affirmative votes that the DA is not consistent with the City's GP and one – Commissioner Reed – that it is consistent. Chair Mercer wanted it clear that she believes it is consistent with the GP but she would not recommend it.

CDD de Melo confirmed that there is still a majority of the Commission that believes that it is not consistent with the GP. As per the zoning code, the Commission has taken an action and has made a recommendation on the Environmental Study, made recommendations on 3 entitlements, and made a recommendation on a DA. The Commission's proceedings will be transmitted to the City Council in a staff report. The item will appear on the agenda for the first available Council Meeting when the applicant is available, the earliest date being August 14th.

6. REPORTS, STUDIES AND UPDATES:

CDD de Melo reported as follows:

6A. North Road Right-of-Way

Weeds have been cut down.

6B. Caltrain Modernization Program/High-Speed Rail (HSR)

No report at this time.

6C. Ralston/US-101 Landscape Project

No report at this time.

7. CITY COUNCIL MEETING OF TUESDAY, ~~AUGUST 14, 2012~~ JULY 24, 2012 7:30 P.M.

Liaison: Commissioner Horton
Alternate Liaison: Commissioner d'Souza

Commissioner Horton cannot attend the meeting on July 24th. Commissioner d'Souza will be there.

9. ADJOURNMENT: PLEASE NOTE DATE CHANGE

The meeting was adjourned at 12:56 p.m. to a Regular Planning Commission Meeting on Wednesday, August 8, at 7:00 p.m. in Belmont City Hall.

Carlos de Melo

*CD's of Planning Commission Meetings are available in the
Community Development Department
Please call (650) 595-7416 to schedule an appointment.*

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