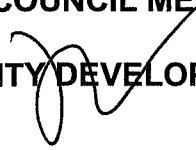





CITY OF RANCHO PALOS VERDES


TO: HONORABLE MAYOR & CITY COUNCIL MEMBERS

FROM: JOEL ROJAS, AICP, COMMUNITY DEVELOPMENT DIRECTOR 

DATE: DECEMBER 21, 2010

SUBJECT: PROCESSING ISSUES RELATED TO THE PROPOSED ANNENBERG PROJECT AT LOWER POINT VICENTE

REVIEWED: CAROLYN LEHR, CITY MANAGER 

Project Manager: Ara Mihranian, AICP, Deputy Community Development Director 

RECOMMENDATION

Temporarily suspend City's entitlement process for the proposed Annenberg Project at Lower Point Vicente for the purpose of directing Staff to work with the Annenberg Foundation to submit a formal application to the National Park Service (NPS) and the State Office of Grants and Local Services (OGALS) in order to obtain their approval of the proposed Annenberg Foundation project for Lower Point Vicente.

BACKGROUND

On October 12, 2010, the Planning Commission opened the public hearing on the requested entitlement applications (Conditional Use Permit, Grading Permit, and Coastal Development Permit) for the proposed Annenberg Project at Lower Point Vicente. At that meeting, concerns were raised regarding the use restrictions imposed on Lower Point Vicente by previous Federal Land and Water Conservation (LWCF) grants administered by the State Office of Grants and Local Services, as well as the Program of Utilization (POU) imposed on Lower Point Vicente by the National Park Service (NPS). In addition, questions were raised by the public and some Planning Commissioners on whether a General Plan Amendment application should be included in the application package that was previously authorized by the City Council for the proposed Annenberg project.

Since these specific concerns relate to policy and processing direction that is within the purview of the City Council, Staff suggested, and the Planning Commission agreed, that these processing issues should be brought forward to the City Council for discussion and direction. As a result, the Planning Commission agreed to continue the public hearing on the proposed project until the City Council provides direction on the processing issues.

**ANNENBERG PROJECT AT LOWER POINT VICENTE
CITY COUNCIL MEMO – DECEMBER 21, 2010**

A discussion of the issues related to the proposed Annenberg Project was brought to the City Council at its November 16, 2010 meeting with the following Staff recommendation:

- 1) Receive a status update on the comments received from the National Park Service (NPS) and State Office of Grants and Local Services (OGALS) on the proposed project's consistency with the Federal Program of Utilization and Federal grant restrictions that apply to Lower Point Vicente and affirm that a formal determination request as to the proposed project's consistency with the Program of Utilization should be submitted to the OGALS and NPS at the conclusion of the City's entitlement process;
- 2) Affirm that a General Plan Amendment application is not necessary to be processed for the proposed project; and,
- 3) Direct the Planning Commission to continue processing the currently requested Conditional Use Permit, Grading Permit and Coastal Permit entitlement applications for the proposed Annenberg Project at Lower Point Vicente.

After hearing a considerable amount of public testimony on the issue, a motion in support of Staff's recommendation failed on a vote of 2 to 3 with Mayor Wolowicz, Councilman Campbell and Councilman Misetich dissenting. However, no other motions were made and no other direction was given to Staff and/or the applicant regarding the processing of the application. While staff acknowledged at the conclusion of the Council's action that no additional direction was needed, after further consideration Staff realized that there are processing questions given that the current application package is still before the Planning Commission.

Council Subcommittee Input

Staff met with the Annenberg Project ad hoc subcommittee made up of Councilman Stern and Councilman Campbell to discuss procedural matters following the November 16th City Council meeting. The Subcommittee agreed that the best course of action to move forward was to identify the processing options that now exist and to obtain direction from the entire City Council on how to proceed from this point forward. The Subcommittee stated its support for the approach described in Option 1.

As such, the purpose of bringing this item to the City Council is not for the City Council to reconsider its decision made on November 16th but to provide Staff with direction on how to move forward given the processing alternatives that now exist.

DISCUSSION

While it is clear that a majority of the City Council did not support the processing scenario recommended by Staff on November 16th, no other direction or action was taken by the City Council that evening with regards to the proposed Annenberg Project applications. The processing of the application package was not formally halted by the City Council, nor was the previous Council authorization to the Annenberg Foundation to pursue applications

for their proposed project at Lower Point Vicente rescinded. Furthermore, the Annenberg Foundation has not withdrawn its applications. As a result, the current application package remains on file and the processing of the application is pending before the Planning Commission.

Given this situation, Staff consulted with the Annenberg Project ad hoc sub committee made up of Councilman Stern and Councilman Campbell and it was agreed that processing direction from the City Council is needed. As such, the sub-committee suggested that staff identify processing scenarios for the City Council to consider for the project applications, and indicated its support for Option 1. Based on the discussion with the Council sub-committee, Staff has identified the following two processing options for the proposed Annenberg project at Lower Point Vicente:

Option 1: Staff's Recommendation as supported by the State and Federal Agencies and with Concurrence of the City Council Sub-Committee

Temporarily suspend City's entitlement process for the proposed Annenberg Project at Lower Point Vicente for the purpose of directing Staff to work with the Annenberg Foundation to submit a formal application to the National Park Service (NPS) and the State Office of Grants and Local Services (OGALS) in order to obtain their approval of the proposed Annenberg Foundation project for Lower Point Vicente.

This option is based on the suggestion made by some Council members at the November 16th meeting to address the proposed project's inconsistency issues raised by the NPS (with the existing POU) and the State OGALS (with the grant restrictions) first to see if said issues can be successfully addressed before continuing on with the City's entitlement process for the proposed project. If the Council agrees to pursue this option, the processing of the currently submitted applications would be temporarily suspended. This would mean that staff and consultant work on the project planning applications (including completion of the Final EIR) would temporarily cease and there would be no more future Planning Commission hearings on the project until so directed by the City Council.

Under this option, Staff would work with the Annenberg Foundation team to prepare a "consistency request" application for formal submittal to NPS and OGALS for their review and consideration. The application would be prepared in accordance with the submittal requirements which have been provided to Staff from NPS and OGALS (see attached). Staff has spoken to representatives from NPS and OGALS regarding this processing option since the November 16th meeting and, both agencies have expressed their full support of this processing option. According to NPS and OGALS, while the application would be formally filed by the City, since the subject property is owned by the City, both agencies expect that the application will be prepared with the assistance of the project applicant, the Annenberg Foundation.

Staff understands that the "consistency request" application would be submitted to OGALS along with any supporting documentation for its review, and OGALS then would coordinate with NPS on their joint review and consideration of the application request. Staff also understands that during the review of the application, City Staff and/or representatives of

the Annenberg Foundation may be called upon to meet with the State and/or NPS to address issues that may come up during their review. It is estimated that the review process with OGALS and NPS may take approximately six months to complete.

At the conclusion of their review, it is expected that OGALS and NPS will provide the City with a determination of whether the proposed project complies with the grant restrictions and POU. Staff understands that the determination could involve any one of the following three scenarios:

- 1) The project as proposed may be determined to be consistent with the POU and grant restrictions;
- 2) The project in some revised form may be determined to be consistent with the POU and grant restrictions; or
- 3) The project may be determined not to be consistent with the POU and grant restrictions and can only move forward if the non-compliance issues are mitigated in either of the following two ways:
 - Public Facility Restriction – Recording a restriction on the proposed building that ensures public access for improvements that enhance outdoor recreation benefits for the entire park.
 - Land Exchange – Purchasing equivalent land to dedicate as a new outdoor recreational park of equal or greater market value and recreational value to correspond with the reduction of land that is available for outdoor recreational use at Lower Point Vicente.

In any case, once the formal OGALS/NPS determination is made, the determination will be presented to City Council for discussion and Staff will be asking for further direction from the City Council as to how to proceed. If the scenario before the City Council at that time involves a project that has received NPS/OGALS approval, Staff will be asking the City Council to re-initiate the local planning process, which will include discussion of the need for a General Plan Amendment application.

In terms of environmental review, as part of the planning entitlement process, pursuant to the California Environmental Quality Act (CEQA), a Draft EIR was released for public review between July 22, 2010 and September 15, 2010 for the proposed project. In light of the Federal government's involvement with the project, it is likely that the project will now also need to comply with the National Environmental Protection Act (NEPA). Typical to other projects involving both State and Federal agencies, Staff envisions combining the CEQA and NEPA review process into one environmental document. As such, the Draft EIR will be revised to include the NEPA component of the project and re-circulated for public review at a future time.

Attached is a letter from the Annenberg Foundation that among other things indicates its support of this processing option including temporarily suspending the City's planning

entitlement process. It should also be pointed out that the attached letter addresses some of the concerns raised by the public at the November 16th City Council meeting, such as the assertions that the proposed project is a dog and cat shelter/pound, a commercial pet adoption facility, or that the Annenberg Foundation seeks to obtain the property from the City to name a few (see attachment).

Option 2

Continue processing the current planning applications with the addition of General Plan Amendment and Coastal Specific Plan Amendment applications for the proposed project while concurrently filing a formal POU Consistency Application to the NPS and OGALS.

This option is based on continuing to process the current planning applications concurrently along with the formal filing of a POU Consistency Application to NPS and OGALS. If the Council agrees to pursue this option, the direction would be for the Planning Commission to proceed with its review of the planning applications (Conditional Use Permit, et. al) with the inclusion of a General Plan Amendment and a Coastal Specific Plan Amendment, while concurrently filing a formal consistency application with the NPS and OGALS for their review and approval of the proposed project at Lower Point Vicente. A General Plan Amendment and a Coastal Specific Plan Amendment would be added to the list of planning applications processed for the project so that the text and definition for the land use designation for Lower Point Vicente can be updated to accurately reflect the existing conditions of the site. It should be noted that by adding a General Plan Amendment to the list of planning applications, the role of the Planning Commission changes from a decision making body to that of an advisory body. In other words, under this option, the Planning Commission would be making a recommendation to the City Council on the planning applications rather than a decision on the proposed project.

Similar to Option 1, Staff would work with the Annenberg Foundation team to prepare a “consistency request” application for formal submittal to NPS and OGALS for their review and consideration. The review process with OGALS and NPS is estimated to take approximately six months to complete. At the conclusion of their review, it is expected that OGALS and NPS will provide the City with a determination of whether the proposed project complies with the grant restrictions and POU as described in Option 1.

In terms of environmental review, due to the Federal government’s involvement in the project, it is likely that the project will now also need to comply with the National Environmental Protection Act (NEPA). As part of the planning entitlement process, Staff envisions updating the existing Draft EIR by combining the CEQA and NEPA review process into one environmental document. As such, the Draft EIR will be revised to include the NEPA component of the project and re-circulated for public review during the planning application review process.

Staff is not recommending this option because of comments raised by some Council members at the November 16th meeting that the issues pertaining to the deed restrictions should first be addressed by the NPS and OGALS before the City proceeds with its review

of the project applications. Moreover, if the planning applications are processed concurrently while the NPS and OGALS are reviewing the proposed project, this processing procedure may cause potential confusion if the project is somehow modified during the separate review processes by the City and the NPS/OGALS. The representatives from NPS and OGALS have indicated that they do not prefer this option.

ALTERNATIVES

As an alternative to the above procedural options, the following action may also be considered by the City Council:

Given the preliminary comments received from NPS and OGALS regarding the proposed project's consistency with the POU and grant restrictions, direct Staff to not submit a formal "consistency request" application to NPS and OGALS and rescind the authorization for the Annenberg Foundation to pursue applications for the proposed project at Lower Point Vicente.

ADDITIONAL INFORMATION

Request for Additional Time to Speak at the December 21st Meeting

It should be noted that the Annenberg Foundation is requesting 30 minutes to speak at Tuesday's meeting to provide the Council and the public with a power point presentation (see attachment). At this time, no other requests have been made for additional time to speak at the December 21st meeting. However, Staff anticipates that members of the public, as part of an organized group referred to as Save Our Shoreline, may also request additional time (i.e. 30 minutes) to speak at Tuesday's meeting. Pursuant to Council policy, it will be up to the Mayor on how these requests will be accommodated.

Additionally, in light of the number of anticipated public speakers at this meeting and that these speakers will likely reiterate the same points expressed at the recent November 16th meeting, the Council may wish to consider limiting the allocated time for each speaker to less than 3 minutes. This will allow time needed for the Council to discuss the issues before them.

Correspondence Received

At this time, there have been several public comment letters submitted to the City since the November 16, 2010 City Council meeting. These comments are attached to this Staff Report. In the event additional comments are received after the transmittal of this Staff Report, those comments will be provided to the Council as late correspondence at the December 21st meeting.

December 21st Meeting Announcement

In order to ensure that the public is aware of tonight's Council meeting, Staff updated the City's website under the Annenberg Project home page with information including the date

and location of tonight's meeting, as well as a link to this Staff Report. Additionally, Staff issued announcements to the list-serve subscribers for this project.

January 25, 2011 Planning Commission Meeting

On October 12, 2010, the Planning Commission opened the public hearing on the requested entitlement applications. While there was some Planning Commission discussion of the proposed project, the Commission ultimately agreed to hold off on considering the merits of the proposed project until the City Council provides direction on the processing issues. Anticipating processing direction from the City Council on November 16th, the PC continued their public hearing to December 14, 2010. On December 14th, the PC continued their public hearing to January 25, 2011, in anticipation of receiving processing direction from the City Council this evening. If the City Council agrees to pursue processing option No. 1 as described above, the PC's discussion of the Annenberg Project item on January 25, 2011 will not occur.

ATTACHMENTS:

- NPS and OGALS Submittal Requirements
- Annenberg Foundation Speaker Time Extension Request Letter
- Annenberg Foundation Letter
- Public Comment Letters