



AGENDA ITEM 12

- Public Hearing
- Ordinance
- Consent Calendar
- Discussion/Transaction

WALNUT CITY COUNCIL

AGENDA DATE: DECEMBER 13, 2017

TO: Honorable Mayor Su and Council Members

VIA: Robert Wishner, City Manager
Tom Weiner, Community Development Director

FROM: Barbara Leibold, City Attorney

SUBJECT: Mount San Antonio College (Mt. SAC) West Parcel Solar Project (West Parcel) Physical Education Project (PEP) Update

RECOMMENDATION

That the City Council Receive and File the Status Report.

BACKGROUND

During the Council comments and updates portion of the November 8, 2017 Walnut City Council meeting, Council Member Pacheco directed staff to agendize a discussion item related to the ongoing unpermitted construction activities by Mt. SAC, and the City's efforts to work with Mt. SAC to process all applicable approvals and permits and to ensure that the public's health, safety, and welfare is protected.

In recent years, Mt. SAC has begun work on several projects in and around the college campus. These projects require preparation by Mt. SAC of environmental analyses in compliance with the California Environmental Quality Act (CEQA) and City approvals and permits pursuant to state law and City regulations. The most recent projects Mt. SAC has undertaken along with a summarized scope of work provided by Mt. SAC is discussed below.

West Parcel Solar Project

The West Parcel project will mass grade approximately seventeen (17) acres of undeveloped hillside located near the southwest corner of Amar Road/Temple Avenue and Grand Avenue. The area lies within the "residential planned development" zone although, as a solar project, it is exempt from the City's zoning requirements. The project includes the following mass grading efforts:

- Removal of the top fifty-five (55) feet of the hillside;
- Cleanout of natural vegetation and habitat within the canyon(s);
- Fill canyon(s)/lower lying areas to create an approximate ten (10) acre pad area to be used for a 2.2 million watt solar array system;
- Maximum fill height(s) to create solar array pad area is approximately eight (80) feet;
- Truck-hauling operations consisting of approximately 139,000 cubic yards requiring the following:
 - 9,929 total truck loads to be used for the importing of soil to the site to create the pad (each truck is 40-feet in length with a carrying capacity of 14 cubic yards).
 - Twenty (20) truckloads per hour for eight (8) hours per day (1 truck every 3-minutes) totaling sixty-two (62) total days of truck hauling activities to import soil to the site.
- Adjustments to the signalization of Grand Avenue and Amar Road/Temple Avenue

The City originally challenged Mt. SAC's approval of this project in December 2015. Earlier this year, the Los Angeles Superior Court sided with the City and determined that Mt. SAC had not complied with CEQA. Also critical, the court determined that Mt. SAC was required to comply with the City's grading ordinance, including ensuring that haul trucks are properly routed and controlled to ensure the motoring public's safety and address traffic congestion concerns. Last month, the court also determined that the City, as the prevailing party, was entitled to an award of attorneys' fees from Mt. SAC in the amount of \$543,731.

The October 6, 2016 Stop Work notice for the West Parcel site remains in effect due to prior start of construction activities without applicable City approvals. Mt. SAC on January 28, 2017 submitted grading plans to be reviewed and approved by the City. On February 23, 2017, the City notified Mt. SAC that additional items needed to be submitted for review. The Superior Court's March 2017 ruling required that Mt. SAC set aside the Solar Project approvals and environmental documents, and prepare and circulate new environmental studies for the Solar Project before approving it.

On October 11, 2017, Mt SAC certified a new Environmental Impact Report and authorized commencement of Phase 1 Grading Operations. Separate action is required by the Board of Trustees before Phase 2 of the project which includes installation of solar panels and ancillary equipment onsite. Mt SAC recently submitted grading application materials to the City stating that it proposed to commence grading the West Parcel no later than January 2, 2018.

Physical Education Project (PEP)

The PEP, formerly known as the Hilmer Lodge Stadium project, consist of the demolition of existing stadium and construction of a new stadium facility. The project will result in the following grading and truck hauling activities:

- Complete demolition of the Hilmer Lodge Stadium and appurtenant facilities;
- Grading of the site resulting in approximately 140,000 cubic yards of dirt to be exported and hauled off-site resulting in the following:
 - 10,000 truckloads of soil material to be exported (each truck is 40-feet in length with a carrying capacity of 14 cubic yards).
 - Eighteen (18) truckloads per hour for eight (8) hours per day (1 truck every 3.5-minutes) totaling approximately sixty-nine (69) total days of truck hauling activities to export soil material from the site.

There are presently two lawsuits filed by the City challenging Mt. SAC's environmental documentation and failure to comply with the City's land use regulations. Three Stop Work Orders have also been issued by the City related to the PEP project for ongoing construction activities without receiving prior applicable City grading approvals. The most recent Stop Work notice was issued on November 13, 2017. At this time, Mt. SAC is actively conducting grading in violation of the Stop Work Orders and without approved grading plans.

Why the City is Concerned with Grading and Hauling

The City's implementation of its grading and hauling regulations and applicable land use ordinances, is grounded in the City's basic municipal powers aimed to protect the public health, safety and welfare. This regulatory authority is vested in the City by state and local law and is exercised throughout the City's jurisdictional boundaries. Nearly all development in the City is subject to these rules, including Mt. SAC's development activities on the PEP.

The City has worked diligently with Mt. SAC to ensure compliance with State and local requirements. And, despite extensive discussions and negotiations to resolve the disputes relating to the West Parcel and the Physical Education Project, Mt. SAC and the City are at an impasse. Unfortunately, Mt. SAC has now determined to proceed without following the City's grading requirements.

It is incorrect to characterize the City's enforcement of these rules as "opposition" to the 2020 Olympic trials. Mt. SAC's refusal in following the same rules as other developers within the City has led to this dispute over the PEP—not City opposition to the trials.

As a last resort to enforce compliance, the City has filed suit in Los Angeles Superior Court relating to the Physical Education Project and has requested the court mandate compliance. The litigation is continuing. Likewise, litigation challenging Mt. SAC's latest approval of the West Parcel Solar Project EIR is being instituted. Because these issues are the subject of existing litigation, the scope of the City Council and staff discussion and comments may be limited by the City Attorney.