

Nov 10 special Council Meeting – Public Comments

To Mayor Weintraub, Mayor Pro-Tem Bozajian, Councilmembers Maurer, Shapiro and Gaines

I will be speaking on Tuesday during Oral Comments on Items Not on the Agenda about the absence of a Resolution of Denial for the West Village project. In the spirit of being transparent and to give you a “heads-up” I wanted to share some additional information I could not cover in the allotted three minutes.

The decision to speak to you about this comes after several attempts since September to get a straight answer to the question “Why isn’t there a Resolution of Denial for the West Village project?” I contacted the planner assigned to the project in September, spoke at a Planning Commission in October, and read comments made by the CDD last week in an email.

At each turn the response to my simple question is layered with contradictions, circular reasoning and more than anything else, with excuses as to why they DID NOT do what they were directed to do.

The motion passed by a 3-2 vote at the July 18, 2019 Planning Commission meeting gave clear direction to the staff to 1) prepare a Resolution of Denial and to 2) encourage the applicant to pursue further analysis of Alternative 4.

A decision was made to reverse the order of the directive. Who made this decision, and under what legal guise, is not clear. The result is that almost 16 months later there is still no Resolution of Denial as part of the public record. It should be noted that the developer decided to not pursue Alternative 4 thereby fulfilling that part of the motion, yet the other part remains undone.

Nowhere in the motion does it say that one part of the motion supersedes the other. The intent of the motion was clearly stated and is backed up by discussion on the video archives. In fact, Commissioner Mueller reiterated at the very end of the meeting that there would be a Resolution of Denial for the Commissioners to review and he was told by staff that there would be. The implication was that it would be done shortly thereafter.

I am asking that you provide oversight regarding this issue. When motions are made the expectation is that they will be carried out. If they are not a public hearing should be held to maintain transparency. This has not happened in this case. We need, now, the Resolution of Denial with the findings to support it. The West Village project is under review as we speak and the public record is incomplete without it.

Thank you for listening.

Joanne Suwara

Maricela Hernandez

From: Bob Burris
Sent: Monday, November 9, 2020 7:51 AM
To: Maureen Tamuri; Scott Howard; Matthew Summers; Glenn Michitsch; Raymond Taylor; Maricela Hernandez
Cc: Michael Russo; Arvin Petros; Rachel Biety
Subject: Fw: City Council 11-10-20 meeting - Public Comments

Bcc'd to Council

From: Joe Chilco <joe.chilco@gmail.com>
Sent: Friday, November 6, 2020 12:41 PM
To: info <info@cityofcalabasas.com>; Alicia Weintraub <aweintraub@cityofcalabasas.com>; James Bozajian - External <jrbozajian@earthlink.net>; Mary Sue Maurer - External <maureredge@gmail.com>; David Shapiro <dshapiro@cityofcalabasas.com>; Fred Gaines <fgaines@cityofcalabasas.com>
Cc: Maricela Hernandez <mhernandez@cityofcalabasas.com>
Subject: City Council 11-10-20 meeting - Public Comments

Mayor Weintraub and City Council Members:

I am writing in reference to my 11/4/20 email request regarding the lack of a denial resolution for the West Village at Calabasas proposed project. As I am now aware that the November 10, 2020 City Council meeting does include Oral Comments on the agenda, please consider the following in its entirety as such.

For reference, the text of my original 11/4/20 email and of the 11/5/20 email I received from Maureen Tamuri explaining the City Planning staff's handling of the Planning Commission's direction with regard to the West Village at Calabasas proposed project follow these further comments on the matter.

My original request still stands (i.e., "I ask that the City Council investigate this matter and require the City Planning staff to create the resolution that the Planning Commission directed them to produce before any further action is taken on a recirculated EIR.").

Given that Maureen acknowledged "that the current planning commission position on the project is to deny it, and it is our obligation to return to the Commission with a draft resolution effecting that recommendation for their consideration", if the Planning Commission had been made aware that the applicant determined that Alternative 4 was not feasible and it could not present a project alternative with no landslide mitigation, then the Planning Commissioners could make the determination on whether to proceed with the denial resolution at that point. This would have saved time and money.

In the video archive of the October 15, 2020 Planning Commission meeting, during his spoken response to Joanne Suwara's Oral Comments inquiring on the status of the West Village at Calabasas denial resolution, at approximately 2:12:37, Tom Bartlett said that he wanted to clarify that the idea that there would be an Alternative 5 stemmed from City Planning staff. He had also stated that the applicant did not first suggest it.

In Maureen's response she stated, "Since the applicant determined to prepare and evaluate a new Alternative 5, developed in response to the Commission's request,...". As Alternative 5 still includes full remediation of the landslide, that isn't what the Planning Commission requested – that's what they rejected already.

Again, time and money could have been saved.

In Maureen's response she stated, "The Planning Commission's action and request of staff had two interconnected elements: a) to return with a draft resolution of denial for the current project, and b) strong encouragement to the applicant to study the feasibility of Alternative 4 (a project alternative with no landslide mitigation) and further pursue a version of Alternative 4 if feasible."

I disagree with the characterization that there was "strong encouragement". In fact, it was an afterthought when it was clear that the Commissioners intended to vote to deny recommending the project to the City Council.

Here is an excerpt from the "MINUTES OF A REGULAR MEETING OF THE PLANNING COMMISSION OF THE CITY OF CALABASAS CALIFORNIA, HELD THURSDAY, JULY 18, 2019.

Commissioner Harrison made a motion to deny draft Resolution No. [2019-689](#) with an added hope that the applicant will return with a modified version of Alternative 4.

The motion was seconded by Commissioner Mueller, to include language recommending that the applicant come back with any alternative they wish to propose, and further directing staff to prepare a revised resolution supporting a denial.

Commissioner Harrison accepted the amendments to the motion.

Vote on the motion: 3-2 (motion passed)."

In Maureen's response she stated, "Because they requested that Alternative 4 be studied for its feasibility, they are entitled to be presented with the result of that study as part of their project review and prior to action on their recommendation to the Council". Given that Alternative 4 is not being presented and the alternative being presented includes elements that have already been rejected, it should have happened when the applicant conveyed that, in their opinion, a no-landslide remediation was infeasible. At that point, the Planning Commission's direction to City Planning staff on that point was fulfilled.

In Maureen's response she suggested that the City Planning staff encouraged the applicant to take a pause and study alternatives due to community, Planning Commission or Council concerns. However, that didn't happen – the alternative being proposed ignores public comments that clearly opposed the full remediation of the landslide. Further, that alternative ignores the fact that full remediation of the landslide was rejected by the Commissioners when it was established that the landslide poses no public safety threat and serves only the applicant's needs.

The City Planning staff do not work for the applicant. They work for the City. The City protects the interests of the public. The City Planning staff encouraged the applicant to pursue an alternative that is in direct conflict with the interests of the public and its concerns and that was rejected by the Planning Commission. I don't believe it's useful to encourage the applicant to "beat a dead horse". It's a waste of time and money.

If the Planning Commission knew what City Planning staff knew when City Planning staff knew it, then the Planning Commission could have made an informed decision long ago.

As a result, I am at a loss to understand why City Planning staff chose to act in the manner they did rather than allow the Planning Commission to make the determination of how to proceed, given the information they knew at the time.

From the public's perspective, we are being asked to comment on an EIR for a proposed project that has already been rejected and the Public Record should reflect that already. It doesn't and that's not in the best interests of the public.

I reiterate my request that the City Council investigate this matter and require the City Planning staff to create the resolution that the Planning Commission directed them to produce now before any further action is taken on a recirculated EIR.

Joe Chilco
Calabasas resident (address on file)

FOR REFERENCE, THE FOLLOWING IS TEXT FROM MAUREEN TAMURI'S 11-5-20 EMAIL:

"I am responding to your email of this morning to the City Council regarding the West Village Project. I am specifically responding to the various points you raise regarding the Planning Commission's initial recommendation, the staff process, and the current project.

The Planning Commission's action and request of staff had two interconnected elements: a) to return with a draft resolution of denial for the current project, and b) strong encouragement to the applicant to study the feasibility of Alternative 4 (a project alternative with no landslide mitigation) and further pursue a version of Alternative 4 if feasible.

After their internal discussions, the applicant informed staff of their decision to follow the Planning Commission's recommendation, and proceeded with a comprehensive engineering study of Alternative 4. After some time, and based on additional geotechnical analysis, they determined that a no-landslide remediation was infeasible.

This information was conveyed to staff and subsequently analyzed by the City and our CEQA consultants. It included a new Alternative 5, which is a smaller version of the project adjusted to be feasible and responsive to Scenic Corridor aesthetic impact concerns during the Planning Commission public hearings. It was determined that this new data and other project updates (new state laws governing traffic impact analysis under CEQA, on-the-ground changes due to the Woolsey fire's impact, etc.) required recirculation in an amended Draft EIR; it will serve as a revised CEQA analysis for consideration by the Planning Commission.

Had the applicant decided to move forward without studying the feasibility of Alternative 4, staff would have prepared the draft denial resolution and brought it back to the Planning Commission at a subsequent meeting last year, then moved the project on to the City Council for review and a final decision. Since the applicant determined to prepare and evaluate a new Alternative 5, developed in response to the Commission's request, bringing back a denial resolution separate from the alternative's study would have been premature.

A few other points of note...

There has been no revision to the current project, and no substitution of another project in its place. Instead, as a result of the applicant's study and evaluation of Alternative 4, what we have is a revision to the CEQA alternatives, circulated for public review and comment, as required by California law.

We have proceeded in full alignment with the Planning Commission's request. Staff acknowledges that the current planning commission position on the project is to deny it, and it is our obligation to return to the Commission with a draft resolution effecting that recommendation for their consideration.

Staff is concerned that perhaps the unusual nature of the Planning Commission's request causes you to believe that there was an obligation for staff to immediately return to the Commission with a resolution of denial. That is not the case. Because they requested that Alternative 4 be studied for its feasibility, they are entitled to be presented with the result of that study as part of their project review and prior to action on their recommendation to the Council.

The thoroughness of the Planning Commission's requested analysis is part of the recirculated EIR. Staff has reviewed the additional technical analyses submitted by the applicant of Alternative 4, reviewed and analyzed the new proposed Alternative 5, and sent all of the above out to the public, for public review and comment through the CEQA and EIR addendum process. Were staff to have pre-denied such an alternative without further Commission and Council consideration, we would have acted inconsistently with the City's codes, applicable law, and our long-standing procedures.

As to transparency, we note that you filed and received a public records request for applicant submitted materials via the City Clerk, and you were provided all available documents last summer.

Please remember that this is not the first time when an applicant has taken a pause and studied alternatives due to community, Planning Commission or Council concerns. This is always encouraged, not discouraged. In fact, the creation and purpose of the Community Development Forum process is to facilitate such consideration.

Joe, the end result of this analysis is the provision of far more, not less information, available to the public, agency reviewers and ultimately decision makers on this project. To help facilitate a thorough public review process, please be advised that the comment period on the revised EIR remains open through Friday, November 13th, and we encourage you to submit comments.

I hope that this information is of use to you. M"

FOR REFERENCE, THE FOLLOWING IS TEXT FROM MY 11-4-20 EMAIL:

"Mayor Weintraub and City Council Members:

The West Village at Calabasas proposed project was rejected by a majority vote of the Planning Commissioners at the July 18, 2019 meeting. At that time, the City Planning staff was directed by the Planning Commission to prepare a resolution to recommend denial to the City Council. It was not an either/or choice.

There was clarity in the intent and the direction given to City Planning staff. If there was any confusion, it should have been clarified before proceeding but they didn't. City Planning staff's failure to do so has a direct negative impact on the City's development processes. Instead of informing the Planning Commission at every step of the way in the process, they acted as decision-makers without the authority to do so.

As a result, the public is now tasked with commenting on a recirculated EIR that proposes an alternative that is virtually identical to the proposed project, especially with regard to full remediation of the landslide. This is unacceptable given that the proposed project has already been rejected by a 3-2 vote. What is lacking is the resolution of denial that City Planning staff has yet to produce in the past 15 months.

The City Planning staff bent over backwards to keep the West Village at Calabasas proposed project from being denied. This was clearly in favor of the developer and in direct opposition to the public comments. It was also in complete disregard of the Planning Commission's direction. Transparency is also sadly lacking. City Planning staff weren't forthcoming in their approach.

The City Council and the Planning Commission rely on staff to provide them with accurate information and all salient details. That didn't happen in this case.

The City Council has a duty to protect the interests of the public. Allowing City Planning staff to disregard the direction of the Planning Commission in the case of the West Village at Calabasas proposed project would fail to do that.

I ask that the City Council investigate this matter and require the City Planning staff to create the resolution that the Planning Commission directed them to produce before any further action is taken on a recirculated EIR.

Time is of the essence. I am writing to you now because there are no City Council meetings with Oral Comments on the agenda prior to the end of the current EIR comment period (November 13, 2020).

Thank you for your consideration.

Joe Chilco
Calabasas resident (address on file)"