

Comment by: West Lakeside, LLC

Subject: Failure to Include West Lakeside Property and Natomas Unified School District Property in General Plan Update

West Lakeside

The owners of the West Lakeside Property - Assessor Parcel Numbers 225-0030-001 and 225-0030-046, ("Property") - are concerned regarding the Planning Department's analysis of the Property during the General Plan Update process. Of primary worry is the fact that the City failed to include West Lakeside in the General Plan's Preferred Land Use Alternative, while including other similarly situated properties such as Greenbriar, Camino Norte, and the Panhandle ("Other Properties").

Pursuant to the Agreement to Settlement Agreement by and between the City of Sacramento and Northpointe Park, LLC, Borden Ranch Partnership, Lennar Winncrest, LLC and Natomas Estates, LLC, the City obligated itself to process "First Stage Legislative Entitlements" for the Greenbriar, Camino Norte, and West Lakeside properties. Section 5(a) of the Settlement Agreement states in pertinent part that:

(1) "[t]he City agrees to process the pending application for 'First-Stage Entitlements' for the West Lakeside project . . . and to prepare the Environmental Impact Report/Environmental Impact Statement ('EIR/EIS') for the First-Stage Legislative Entitlements for West Lakeside.

(2) "First-Stage Legislative Entitlements shall be defined to mean general plan or NNCP amendments, rezonings (including prezonings and the establishment of Planned Unit Developments) and development agreements.

The Settlement Agreement undeniably creates an obligation for the City to evaluate development of the Property at the same time as the Other Properties. The most efficient means by which to evaluate the Property is through the Environmental Review process associated with the General Plan Update. The General Plan EIR will help to analyze the Property's impact from a broader perspective - a perspective that can later serve as the basis for a project-specific environmental document. In addition, Natomas Unified School District's ("NUSD") purchase of the northern-most 41 acres of the Property for a potential school site represents their intent to utilize the property and a need to analyze the District's potential uses within the context of the General Plan Environmental Impact Report.

Further, the General Plan Update's Preferred Land Use Alternative includes all of the Other Properties in the Settlement Agreement. It is unreasonable for the City to afford the Other Properties the right to analysis via the General Plan Update and associated EIR while categorically denying that same right for West Lakeside. By including the Other Properties in the General Plan and not including West Lakeside, it is implied that the City will process the Other Properties' First Stage Legislative Entitlements first. This expedited processing will allow these properties to gain all entitlements before the subject Property.

It is the Property owners' view that the Planning Department has mistakenly forgot about the Settlement Agreement and has improperly excluded the Property from the General Plan Update process. As such, the Property owners request that the City include West Lakeside in the General Plan update, so that the City can fairly analyze the Property vis-à-vis the Other Properties in the Settlement Agreement.

Staff has stated previously that West Lakeside's inclusion in the General Plan Update is not justified under the Settlement Agreement because "the Settlement Agreement does not require immediate consideration of first stage entitlements for West Lakeside" until "completion of the SOI Study for the Natomas Joint Vision Area."

While the Settlement Agreement calls for the completion of an SOI study prior to the processing of legislative entitlements, Staff incorrectly states that the Joint Vision SOI Study is the SOI Study referred to in the Settlement Agreement. In fact, the Joint Vision SOI Study was not even contemplated at the time of the 2001 Settlement Agreement. The City has stated in discussions with the Applicant that the City never pursued the original SOI Study contemplated by the Settlement Agreement. As stated in an October 11, 2007 email by City Staff to AKT: "At the time of the Settlement Agreement, City staff had intended to go forward with a comprehensive study of future boundaries for the City - a Sphere of Influence Study. That effort was never pursued." It appears that the General Plan update has become the substitute mechanism for studying the properties in the Settlement Agreement apart from West Lakeside.

The Applicant is being unfairly penalized for the City's decision not to pursue the original SOI Study contemplated in the Settlement Agreement. Almost seven (7) years have elapsed since the parties entered into the Settlement Agreement, and there is still no clarity as to when the City will complete the Natomas Joint Vision Area SOI Study. Simply put, the Settlement Agreement is a contract, and the parties are bound by their intent at the time of the contract. It is clear that at the time of signing the contract, the City intended to go forward with an SOI Study other than the Natomas Joint Vision Sphere Influence Study. By failing to go forward with the SOI Study contemplated in the Settlement Agreement in a timely fashion, the City effectively breached the contract and/or waived the SOI pre-condition altogether.

The City has remedied this breach as it applies to the other two projects detailed in the Settlement Agreement by processing the Legislative Entitlements for both Camino Norte and Greenbriar. In fact, the City is utilizing the General Plan

update as a mechanism for processing two of the Legislative Entitlements contemplated by the agreement; a sphere of influence amendment and a general plan amendment. The City must believe that this course of action is the most effective means for processing these entitlements. Given that the City has the same contractual obligation to West Lakeside as it does to Greenbriar and Camino Norte and given that the City has taken steps to remedy contractual breaches to Greenbriar and Camino Norte through the General Plan update, it logically follows that the City should include West Lakeside in the General Plan update.

Staff basically states that since the Notice of Preparation for the General Plan EIR has been issued, and since only Panhandle, Greenbriar, and Camino Norte received specific City Council actions to be included in the General Plan, that this somehow forecloses West Lakeside's rights for the same course of action. In reality, these actions support West Lakeside's movement forward as the Applicant has the same rights as Greenbriar and Camino Norte. The City can easily amend its NOP to include the West Lakeside property.

Given the aforementioned, we ask that Staff include the property in the General Plan update.

Natomas Unified School Site

Another point of concern is that the City has not included the Natomas Unified School District ("NUSD") site North of the West Lakeside property in the General Plan update. The site's location meets the requirements of the North Natomas Community Plan. The North Natomas Community Plan, 1994 Amendment, outlines that the North Natomas community would require one high school site west of Interstate 5. The NUSD purchased the land north of West Lakeside intending to use it as a high school as called for in the North Natomas Community Plan.

Evidencing the intent to utilize the site, the NUSD has prepared initial building plans for the site and has commenced the CEQA process. The Notice of Preparation for the school site EIR has been issued, and the draft EIR is being crafted. If the City has an intent to provide the roads and services to accommodate the school site, then it should include the site in the General Plan update and analyze it in the General Plan EIR.

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