

COURT UPHOLDS MEDICAL CAMPUS EXPANSION, PROVIDES GUIDANCE ON USING FUTURE TRAFFIC PROJECTIONS TO ANALYZE TRAFFIC IMPACTS

Pfeiffer v. City of Sunnyvale, No. H036310 (Cal. Ct. App. 6th Dist; October 28, 2011)

December 7, 2011 by *Maria Pracher* and *Alex Merritt*

The 6th District Court of Appeal recently denied a challenge to the proposed expansion of a medical complex in the City of Sunnyvale. The decision reaffirms the standard for evaluating general plan consistency and, in the wake of *Sunnyvale West Neighborhood Assn v. City of Sunnyvale City Council*, 190 Cal.App.4th 1351 (2010), reaffirms the use of future baselines in analyzing traffic impacts.

Palo Alto Medical Foundation proposed to expand a medical complex in the City of Sunnyvale. The proposal involved demolishing several existing structures, including three single-family residences, and then constructing a medical office building, a parking garage, and a storage and waste management area.

The City prepared and certified an environmental impact report and approved the project.

Concerned neighbors petitioned for a writ of mandate, challenging the EIR and project approvals. The trial court denied the petition, and the neighbors appealed, arguing that the project was inconsistent with the City's general plan and that the EIR failed to properly analyze the project's traffic and noise impacts.

The 6th District Court of Appeal affirmed, finding no merit in the neighbors' arguments.

General Plan Consistency

The City's general plan designated the project site for low density residential uses. A general plan appendix suggested that land with this designation was to be "used exclusively for single family detached homes." The neighbors argued that because the project involved demolishing

single family homes and replacing them with other uses, the project was inconsistent with the general plan.

The court emphasized that the City had broad discretion to interpret its own general plan, and that the burden was on the neighbors to show that the City had abused its discretion. Giving the City great deference, the court then analyzed the neighbors' argument.

The court first noted that a project need not comply with every policy in a general plan. Given the range of competing interests reflected in a general plan, perfect conformity with every policy would be nearly impossible. In this case, the City had made specific findings that the proposed expansion was consistent with several general plan policies. Therefore, the neighbors could not show that the City abused its discretion, even if the project was inconsistent with another policy elsewhere in the plan.

Furthermore, the court suggested that the neighbors had misinterpreted the appendix. By its own terms, the language in the appendix only applied to certain residential zoning districts, and the project site was not located in one of them. Moreover, even if the neighbors had correctly interpreted the appendix, they provided no authority for the proposition that a statement in an appendix is equal to a general plan mandate. Finally, the court found that the neighbors had not met their burden to show, based on all of the evidence in the record, that the City's determination of general plan consistency was unreasonable.

EIR Discussion of General Plan Consistency

The neighbors argued that the EIR was inadequate because it did not explain how demolishing and replacing the single family homes was consistent with the general plan, and did not adequately respond to a public comment regarding the project's consistency with the general plan.

The court quickly rejected these arguments. First, it found that CEQA only requires an EIR to discuss a project's *inconsistency* with an applicable general plan, not its *consistency* with an applicable general plan. Thus, the EIR was not inadequate. Second, to the extent the City was even required to respond to the public comment, its response was sufficient because it contained a similar level of detail as the comment and provided good faith analysis of the issue.

Traffic Baselines

The City analyzed several baselines in the EIR to measure the project's traffic impacts. First, the City conducted traffic counts and used them to establish an existing conditions baseline. Then the City created alternative baselines that accounted for projected traffic growth in the project

area and projected traffic impacts from other approved projects that had not yet been constructed.

The neighbors argued that a traffic baseline for evaluating a project's traffic impacts may take into account *only* existing conditions, and that the City had abused its discretion by also analyzing projected conditions.

The court reasoned that although an EIR must describe existing traffic conditions, it may also use projected traffic conditions to analyze a project's impacts. Citing *Communities for a Better Environment v. South Coast Air Quality Management District*, 48 Cal.4th 310 (2010), the court noted that an "agency enjoys the discretion to decide, in the first instance, exactly how the existing physical conditions without the project can most realistically be measured" In this case, there was substantial evidence that traffic conditions in the project area could vary from existing conditions due to projected traffic growth and construction of other approved projects. Therefore, the City did not abuse its discretion in using future projections to analyze traffic impacts.

The court also distinguished *Sunnyvale West Neighborhood Assn.*, which rejected the analysis of a project's impacts based solely on projected traffic conditions ten years in the future. In contrast to *Sunnyvale West Neighborhood Assn.*, here the City had not relied exclusively on projected future conditions; it had also analyzed the project's impacts in the context of existing conditions.

Noise Impacts

Finally, the neighbors argued that the EIR was inadequate because it did not account for traffic noise impacts on the existing environment, and because it failed to analyze mitigation measures or alternatives that would reduce construction noise impacts to a less than significant level.

The court rejected both arguments. First, the record showed that the City had expressly evaluated traffic noise impacts on the existing environment, both in the body of the EIR and in an Environmental Noise Assessment contained in an appendix. Second, the court found that CEQA requires an EIR to identify a project's significant effects on the environment and describe feasible measures for mitigating those effects. CEQA does not, however, require analysis of mitigation or alternatives that would reduce the impact of construction noise to a level of insignificance.