

History of Open Space (OS) designation in Hermosa Beach, CA (November 1984 to February 2019)

November 1984: Prop N passes. Open Space lands zoning changes require vote of the people – petition initiative.

November 1986: Prop O passes. Amend General Plan Open Space designation requires peoples vote – council initiative.

December 1986: **Hermosa Beach Sued by School District over Proposition O Rezoning Restrictions** by Karen Roebuck, Los Angeles Times, December 21, 1986.

“In a suit filed against the city late last month, the district contends that the proposition conflicts with a state law that allows unused school sites to be developed to the same extent as adjacent properties unless the site have been leased or purchased for park or recreational purposes. The suit also says that state law requires cities, at a school district’s request, to rezone school land to use compatible with surrounding properties.”

“Superintendent Marilyn Corey said the district wants to sell five lots on one of the properties – the former Prospect Heights school site. Each lot is worth more than \$100,000 if zoned for single-family residential use, she estimated, but less than \$20,000 if the open-space designation remains.”

“The suit contends that the proposition will effectively prevent the city from rezoning the properties, locking in open-space zoning for the district’s lands. The suit asks the court to find that the proposition does not apply to the district because it conflicts with state law and that the city must rezone the district’s land.”

“The November initiative protected only parts of the property at each site, he (City Attorney James P. Lough) added, and the council could rezone the other parts without voter approval.”

1989: The City of Hermosa Beach changes the General Plan designation of the City Maintenance Yard site from “open space” to “industrial”. The City does not amend the certified LUP (Land Use Plan) designation of “open space”. – from Machperson Oil Company Project Timeline, January 21, 1998.

1990: The Hermosa Beach City Council adopts amendments to Hermosa Beach’s zoning ordinance to add oil drilling as a permitted use for an M1 (light manufacturing) zone and allowing oil and gas facilities to temporarily exceed the City’s maximum height limit of 35 feet.

1995: **The Hermosa Beach City Council changes the Alano Club (702 11th Place) zoning from Open Space (OS) to General Commercial (C-3).** This move is contrary to the provisions of the Sale and Purchase Agreement for Pier Avenue School Grant Deed. The Pier Avenue School was sold to the City by the School District in February 1978. Apparently, no vote of the people

is required for the change despite Proposition O passing in 1986. – from Planning Commission minutes of February 21, 1995, page 7.

May 1999: Measure A passes. Rezone property behind Learned & Mar Vista Motel from Commercial to Residential – petition initiative.

September 2004: Request by property owners for an interpretation regarding a partial O-S Open Space zoning designation for residential properties located at 517 and 21-521 ½ Loma Drive.

“The subject property owners have submitted the attached correspondence requesting that the City Council provide an interpretation that would relieve them of the open space zoning designation shown on the City’s zoning maps on the rear of their properties. The issue is whether the rear portions of these privately owned parcels are subject to two City ballot measures, approved by the electorate in 1984 and 1986, that prohibit removal of the open space designation without a vote of the people.”

“... evidence of precisely what properties were intended to be included in the rule established by the initiatives (N and O) is incomplete and inconclusive.

“7. The City purchased 4.48 acres consisting of the South School site from the School District for use as a park in 1992; however, the City did not purchase the rear portions of the lots in question and the School District had no use for them. In January 1991 the District conveyed the back half of Lot 5 (westerly 51.5 feet) back to the private property to the owner at the time, Martin Cochran. Lot 4 was conveyed to the current owner, Francis Parker, in 1990)

Conclusion: “While not conclusive for the reasons discussed above, both the map associated with the initiatives and the City’s official maps from the era suggest that the subject properties were under School District ownership. That would mean that they are governed by the initiatives, and that the open space designation cannot be removed without a vote of the people. Subsequent events (sale of the site to the City excluding these parcels, and their subsequent sale to the private owners) make this result arguably unintended...”

November 2005: Measure E fails. Zone the Beach O-S-1 (like the Greenbelt) and prohibit the construction of new public improvements on the beach and greenbelt – petition initiative.

CITY OF HERMOSA BEACH

BALLOT MEASURES

<u>Nov. 1980</u>	Prop AA	Advisory - Public Assisted Affordable Housing - Council Initiative	FAILED
	Prop BB	Advisory - Affordable Housing - Seniors Only - Local Assistance Only - Council Initiative	PASSED
	Prop CC	Advisory - Affordable Housing Family & Handicapped - Local Assistance Only - Council Initiative	FAILED
	Prop DD	Advisory - Affordable Housing Senior & Handicapped - Federal & State Assistance - Council Initiative	FAILED
	Prop EE	Advisory - Density Consistency Between General Plan & Zoning, Lower Designation - Council Initiative	PASSED

<u>Nov. 1983</u>	Prop E	Hotel Biltmore Site - 75 feet tall, 175 rooms - Council Initiative	FAILED
	Prop F	Biltmore Site - 49 Timeshare Condominiums - Petition Initiative	FAILED
	Prop G	Civil Service Amendment re Spouses Both Working - Council Initiative (State Law conformance)	PASSED
	Prop H	Advisory - Crossing Guard District - Council Initiative	PASSED
	Prop J	Advisory - Landscape Maintenance District - Council Initiative	PASSED

<u>April 1984</u>	Prop A	Advisory - Bonds to purchase Railroad R-O-W (\$5 million to \$15 million) - Council Initiative	PASSED
-------------------	--------	--	--------

<u>Nov. 1984</u>	<u>Prop N</u>	Open Space Lands Zoning Changes Require Vote of the People - Petition Initiative	<u>PASSED</u>
	<u>Prop O</u>	Community Facilities District to Buy Railroad R-O-W & School Property - Council Initiative (needed 2/3 vote)	<u>FAILED</u>

(11/84 cont'd)	Prop P	Oil drilling at City Maintenance Yard - Council Initiative	PASSED
----------------	--------	--	--------

	Prop Q	Oil Drilling at South School Site - Council Initiative (at request of School District)	PASSED
	Prop R	Civil Service Amendment re Political Activities of Employees - Council Initiative (State Law conformance)	PASSED
<u>Dec. 1984</u>		Greenwood/Langlois Hotel Development Agreement - Referendum	FAILED
<u>June 1985</u>		Greenwood/Langlois New Hotel & Park - Council Initiative (tie vote)	FAILED
<u>Apr. 1986</u>		Advisory - Offshore Oil Drilling in Santa Monica Bay - Council Initiative ("negative question")	FAILED
<u>Nov. 1986</u>	<u>Prop O</u>	Amend General Plan Open Space Designation Requires Peoples Vote - Council Initiative	PASSED
	Prop P	Tax Override for Police Public Safety - Council Initiative (needed 2/3 vote)	FAILED
	Prop Q	Limit Density in Residential Zones - Minimum Lot Size - Council Initiative	PASSED
<u>Nov. 1987</u>	Prop J	OSPAC Measure - Buy Railroad Right-of-Way - Council Initiative (at request of petition circulators)	PASSED
	Prop K	Utility User Tax (UUT) increase from 6% to 10% - Council Initiative	PASSED
	Prop L	Oil Revenue to Open Space Fund - Council Initiative (at request of petition circulators)	PASSED
	Prop M	Height Limit Commercial Zones - Council Initiative	PASSED
	Prop N	Gross Receipts Motion Picture Theaters - Council Initiative	PASSED
<u>June 1988</u>	Prop D	Use 4% of UUT for Right-of-Way Purchase - Council Initiative	PASSED
<u>Nov. 1988</u>	Prop W	Confirming Taxes per Prop #62 - Council Initiative	PASSED
	Prop X	Sell Biltmore Site as Residential -	FAILED

		Council Initiative	
	Prop Y	Sell Biltmore Site as Commercial - Council Initiative	FAILED
	Prop Z	Sell Biltmore Site as Specific Plan Area Hotel - Council Initiative	FAILED
<hr/>			
<u>Nov. 1989</u>	Prop C	Biltmore Site for Park, adjacent for Commercial - Petition Initiative	FAILED
	Prop D	Biltmore Site for Park, adjacent for Commercial & Residential - Council Initiative	FAILED
	Prop E	Dogs Off Leash on Railroad Right-of-Way - Petition Initiative	FAILED
	Prop F	Dogs On Leash on Railroad Right-of-Way - Council Initiative	PASSED
<hr/>			
<u>Nov. 1991</u>	Prop G	Biltmore Site for Open Space Park - Petition Initiative	FAILED
	Prop H	Biltmore Site for Residential & Commercial/Recreation - Council Initiative	PASSED
	Prop I	Maximum Height Limit in C-2 & C-3 Zones & SPA #7 & #8 - Council Initiative	PASSED
	Prop J	Advisory - Restricting Housing Development Standards - Council Initiative	PASSED
<hr/>			
<u>Nov. 1992</u>	Prop D	Biltmore Site for Open Space Park - Petition Initiative	PASSED
<hr/>			
<u>Nov. 1993</u>	Prop H	Advisory - Increasing Standard Height Limit in R-3 and R-P Zones - Council Initiative	FAILED
<hr/>			
<u>Nov. 1995</u>	Prop E	Repeal Exceptions to Citywide Ban on Oil Drilling - Petition Initiative	PASSED
(11/95 cont'd)	Prop F	Crossing Guard Services Special Tax - Council Initiative (needed 2/3 vote)	FAILED
	Prop G	Repeal Obsolete and Unenforceable Civil Service Provisions of Municipal Code - Council Initiative	PASSED

	Prop H	Exempt Department Heads from Civil Service System - Council Initiative	PASSED
<u>March 1996</u>	Prop F	Utility Users Tax Increase from 6% to 8% - Council Initiative	FAILED
<u>May 1999</u>	Measure A	Rezone property behind Learned & Mar Vista Motel From Commercial to Residential - Petition Initiative	PASSED
<u>Nov. 1999</u>	Measure D	Repeal City's Utility Users Tax (currently 6%) - Petition Initiative	FAILED
<u>Nov. 2001</u>	Measure F	Establish beach/coastal restrictions for temporary events and commercial advertising - Petition Initiative	FAILED
<u>Nov. 2001</u>	Measure G	Establish City Council consecutive term limits - Petition Initiative	FAILED
<u>Nov. 2001</u>	Measure H	Repeal City's Utility Users Tax – Petition Initiative	FAILED
<u>Nov. 2003</u>	Measure V	Amend City's Civil Service System to allow Military Veterans credit in scoring of employment exams – Council Initiative	PASSED
<u>Nov. 2003</u>	Measure W	Advisory regarding construction of a separate bike path on the beach – Council Initiative	FAILED
<u>Nov. 2005</u>	Measure E	Zone the Beach O-S-1 (like Greenbelt) and prohibit the construction of new public improvements on the Beach and Greenbelt – Petition Initiative	FAILED
<u>Nov. 2007</u>	Measure H	Reduce local phone/cable TV tax from 6% to 5 1/2% Protects tax against changes in Fed Law; including new Communication technology; retains existing exemptions For Seniors & disabled – Revenue continuing to be used Exclusively for HB for essential services as: 911, emergency Response, fire, police and sewer and street repairs with Continued public review of City Budget	PASSED
<u>Nov. 2011</u>	Measure N	Adopt Ordinance as recommended by the Business License Tax Review Committee, comprised of residents and business owners and a unanimous City Council to simplify, update and restructure	

the City's business license tax Ordinance and offer incentives for new businesses.

PASSED

Nov. 2011

Measure Q

Adopt Ordinance as submitted by initiative petition to amend the City's business license tax ordinance by modifying the amount of business license tax on restaurants and bars in order to increase tax revenue to the City.

FAILED

Nov. 2013

Measure B

An Ordinance reducing the post-midnight operating hours of specified businesses in the downtown area of Hermosa Beach, California.

PENDING

← Back to Original Article

Hermosa Beach Sued by School District Over Proposition O Rezoning Restriction

December 21, 1986 | KAREN ROEBUCK | Times Staff Writer

HERMOSA BEACH — The city elementary school district has asked the Superior Court to clarify its rights under Proposition O.

The ballot measure, overwhelmingly passed by Hermosa Beach voters in November, prohibits the city from rezoning 15 areas designated as open space under the city's General Plan—including five properties owned by the district—without voter approval.

In a suit filed against the city late last month, the district contends that the proposition conflicts with a state law that allows unused school sites to be developed to the same extent as adjacent properties unless the sites have been leased or purchased for park or recreational purposes. The suit also says that state law requires cities, at a school district's request, to rezone school land to uses compatible with surrounding properties.

Supt. Marilyn Corey said the district wants to sell five lots on one of the properties—the former Prospect Heights school site. Each lot is worth more than \$100,000 if zoned for single-family residential use, she estimated, but less than \$20,000 if the open-space designation remains.

Two Schools to Close

The district has closed three schools in the last 11 years—one of which was sold—and plans to close two more within four weeks. All students and administrators will then be at Hermosa Valley School.

The district estimates that \$3.5 million in renovations are needed at Hermosa Valley and is depending on selling some of the surplus properties to pay for them, according to the lawsuit.

Three of the school facilities are, or soon will be, leased, but their use as rental properties also depends on the zoning, Corey said. Only certain types of businesses can operate in an area zoned for open space, such as schools, child-care facilities and churches, she said.

The suit contends that the proposition will effectively prevent the city from rezoning the properties, locking in open-space zoning for the district's lands. The suit asks the court to find that the proposition does not apply to the district because it conflicts with state law and that the city must rezone the district's land.

City Atty. James P. Lough said the city has not rezoned any of the school district's property—which is zoned for open space or is unclassified—since 1975 and that the district has not requested any zoning changes recently.

Parts Could Be Rezoned

The November initiative protected only parts of the property at each site, he added, and the council could rezone the other parts without voter approval.

"I don't think the lawsuit's valid," Lough said, adding that he hopes the district and the City Council will settle their differences.

Lough said the city has been willing to negotiate to buy the Prospect Heights property. He said he did not know how much the city would be willing to pay.

MACPHERSON OIL COMPANY — PROJECT TIMELINE

- 1919 The Legislature of the State of California grants to the City of Hermosa Beach the tidelands and submerged lands within the City boundaries, in trust.
- 1932 The City of Hermosa Beach institutes a citywide ban on oil development.
- 1976 The Macpherson Oil Company initially proposes developing oil in the tidelands of Hermosa Beach from the City-owned "Biltmore" site. Proposal subsequently withdrawn.
- 1981 The City of Hermosa Beach submits draft Coastal Land Use Plan to the Coastal Commission for certification. The City requests that the Commission postpone consideration of land use designation for city-owned "Biltmore" site and associated energy policies. Oil development is still a potential, but locally controversial, option for development.
- 1982 Hermosa Beach LUP certified without incorporating energy policies.
- 1984 Ballot Measures P and Q are passed, granting exceptions to the drilling ban, authorizing oil development on two city-owned parcels.
- 1985 The Hermosa Beach City Council adopts an oil and gas code within the city zoning ordinances which establishes terms and conditions governing oil drilling and development in the city.
- 1986 The City of Hermosa Beach enters into a lease with Macpherson Oil Company to allow Macpherson to drill for onshore oil from the City Maintenance Yard site.
- 1986 The City of Hermosa Beach files an application with the California State Lands Commission (CSLC) to allow drilling for oil, gas and other hydrocarbons in the tidelands area. The CSLC requires the preparation of an Environmental Impact Report (EIR).
- 1989 The City of Hermosa Beach changes the General Plan designation of the City Maintenance Yard site from "open space" to "industrial." The City does not amend the certified LUP designation of "open space."
- May, 1990 The Hermosa Beach City Council certifies the EIR and adopts a Statement of Overriding Considerations for the project.
- May, 1990 The Hermosa Beach City Council adopts amendments to Hermosa Beach's zoning ordinance to add oil drilling as a permitted use for an M-1 (light manufacturing) zone, and allowing oil and gas facilities to temporarily exceed the City's maximum height limit of 35 feet.
- January, 1992 The California State Lands Commission approves the oil and gas lease between the City of Hermosa Beach and Macpherson Oil Company.

Sidra Wieder, 618 Monterey Blvd., stated she was a neighbor and asked what all "this" meant in lay terms. Chairman Dettelbach responded to her question.

No one wished to discuss this item, and Chmn. Dettelbach closed the public hearing at 8:50 p.m.

MOTION by Comm. Di Monda, Seconded by Comm. Merl, to **APPROVE CON 95-1**, per Staff's recommendation.

AYES: Comms. Di Monda, Marks, Merl, Tucker, Chmn. Tucker
NOES: None
ABSENT: None
ABSTAIN: None

Chairman Dettelbach stated this decision could be appealed to the City Council within 10 days.

A break was taken at 8:51 p.m. Chairman Dettelbach reconvened the meeting with all Commissioners present at 9:02 p.m.

General Plan Amendments:

14. **GP 95-1/ZON 95-1 -- GENERAL PLAN REDESIGNATION FROM OPEN SPACE TO GENERAL COMMERCIAL AND ZONE CHANGE FROM OS TO C-3, AND ADOPTION OF AN ENVIRONMENTAL NEGATIVE DECLARATION FOR ALANO CLUB AT 702 11TH PLACE.**

Staff Recommended Action:

To recommend approval of the General Plan redesignation and zone change to General Commercial, C-3, and adoption of an Environmental Negative Declaration.

Mr. Schubach stated this change would allow the Alano Club to continue the conforming use of the property after purchase of this property from the City. He discussed the alternative to this action. Comm. Di Monda asked if a recommendation could be made to Council that the money from the sale not go into the General Fund but to used to rehabilitate some of the park area. Mr. Schubach stated the money was taken from parking funds and would be put back into upgrading and enhancement of downtown. Comm. Tucker felt the an SPA zoning would result in more control than a C-3 zone.

Chmn. Dettelbach opened the Public Hearing at 9:10 p.m.

Tim Meadows, 1517 Waldocott, Redondo Beach, Chairman of the Board, Alano Club, stated the concern was that if the building burned down, they could not rebuild it as it currently exists.

No one else wished to speak, and Chmn. Dettelbach closed the Public Hearing at 9:10 p.m.

mm. Di Monda felt if this were approved, it would be a spot zone, to which he objected. He suggested the area zoning be reviewed at a later date.

August 24, 2004

**Honorable Mayor and Members of the
Hermosa Beach City Council**

**Regular Meeting of
September 14, 2004**

SUBJECT: REQUEST BY PROPERTY OWNERS FOR AN INTERPRETATION REGARDING A
PARTIAL O-S OPEN SPACE ZONING DESIGNATION FOR RESIDENTIAL PROPERTIES
LOCATED AT 517 AND 521-521 ½ LOMA DRIVE

Recommendation:

That the City Council direct staff as deemed appropriate.

Background:

The subject property owners have submitted the attached correspondence requesting that the City Council provide an interpretation that would relieve them of the open space zoning designation shown on the City's zoning maps on the rear of their properties. The issue is whether the rear portions of these privately owned parcels are subject to two City ballot measures, approved by the electorate in 1984 and 1986, that prohibit removal of the open space designation without a vote of the people.

The two parcels in question are Lot 5 and Lot 4 of Block K, Tract 1686 in the County Assessors Maps. These parcels are located adjacent to South Park, and the rear portion of the parcels (the portions in question) were at one time owned by the School District and used for recreational purposes in connection with the school. The current depth of the residential zoning varies between the parcels and the residential use has never encroached on the rear of the lots. The rear portion of the lots are designated open space, and hence, cannot be occupied with structures. The owners of 517 Loma have demolished the residence on the front half, and desire to construct a new residence on the entire lot. They cannot do so without a vote of the people if the rear half is subject to the 1984/1986 initiatives.

Staff conducted extensive research on the zone boundaries and met several times with the owners and their representative and ultimately referred the matter to the City Attorney. The City Attorney met with the lawyer for the property owners to discuss the options relating to the current zoning. The matter has been submitted to the City Council for interpretation since the City Attorney and staff were unable conclusively to determine whether the 1984/1986 initiatives apply to the property. The City Attorney has determined that, aside from a City Council interpretation, the other options available to resolve the matter include placing a measure on the ballot to eliminate the open space designation, or a lawsuit by the property owners seeking declaratory relief in which the parties could, if they chose, agree to a stipulated judgment; neither alternative is palatable to the property owners.

* Proposition N and Proposition O were approved by voter initiative in 1984 and 1986 respectively. These initiatives provided that certain existing open space designations shall not be modified, amended or repealed except by vote of the people. However, evidence of precisely what properties were intended to be included in the rule established by the initiatives is incomplete and inconclusive. The petitions that were circulated in 1984 and 1986 were not retained by the City Clerk. The ordinance placed on the ballot included an Exhibit A, which likely was a map of the affected properties. The City Clerk has possession of such a map, but it is not denominated "Exhibit A." In all other respects, the map appears to correspond to the initiative ordinance and to constitute the Exhibit. The map contains what appears to be the configuration of Lots 5 and 4, and importantly, shows them designated as open space and subject to the ballot measure; however, the scale is so small, it is

difficult to know precisely how much land is being designated. Furthermore, there was no survey or legal description prepared for the affected properties which would have clarified the zone boundary. Copies of the documents pertaining to the initiatives provided by the City Clerk also include a list of properties with tabulated acreage for designation as open space. This listing appears to have been a part of the initiative measure, however, it is not clear what role the list played in the ultimate approval of the measures by the electorate.

The reason that the rear portions of these lots may have been included as open space in the initiatives is that at the time, those portions were owned by the School District and appear to have been used as a playground in connection with the adjoining South School site. Early photos of the lots show a playground area associated with the school. The chronology below explains the history of ownership of these properties and how it came to be that they ended up in private hands after approval of Measures N and O.

This situation came to light with a recent proposal to redevelop the property at 517 Loma Drive. In reviewing the proposed development, staff noted the open space designation and indicated that the rear 51.5 feet of the property can only be developed with uses permitted in the O-S Zone.¹ 521- 521 ½ Loma Drive is similarly affected with an open space designation 28 feet in depth.

The development standards in the zone preclude the owners from fully developing their lot with a single family dwelling, although the owners may construct a single family dwelling on the portion of the lot currently designated R-2.² The owners are instead seeking an interpretation of the initiative and ultimately of the zone boundary on the City's Zoning Map and General Plan Map to fully develop their property.

The question presented is whether the electorate intended to include the rear portions of the subject properties within the proscription of Measures N and O.

Chronology Relating Open Space Designation

1. Lot 5 and Lot 4, Block K, Tract 1686 are established sometime in the 1920's as privately owned lots containing single family dwellings located in the front portion of the properties.
2. In the 1950's the owner of 517 Loma (Lot 5, Block K, Tract 1686) conveyed the back (westerly) half of the property to the school district as determined from a note in the Building Department permit address file and old records and assessors parcel maps that refer to 517 Loma as the easterly 51.5 feet of lot 5, Block K, Tract 1686.
3. A review of the City's zoning maps prior to the initiatives show changes to the residential zoning for the entire lot depth for Lots 5 and 4. In the 1940's the properties were zoned R-2 (two family residence). In the late 1970's the properties are classified "South School" for the development of a school site. In the early 1980's the properties are classified South School and O-S (open space). South of the properties the land is "unzoned" or "unclassified" permitting development of single family dwellings.³
4. In the months prior to the 1986 initiative the properties continue to show an OS designation in staff reports regarding citywide zoning measures being considered by the City Council and Commission.

The current General Plan and Zoning Map for the lots are based upon the boundaries established in the 1980's.

5. The back portions of the lots are designated in the General Plan and Zoning Maps as Open Space (from late 1970's maps to date), apparently to reflect the use of the back half as part of the South School site. There are no city records of formal action to designate these specific properties open space. It is assumed that an action occurred to warrant inclusion of the open space designation of these properties on the City's official maps.

6. In 1984 an initiative called Measure N was enacted (and later amended in 1986 by Measure O) providing that certain existing open space designations in the General Plan, referred to in the initiative, could not be removed without a vote of the people. The initiative listed the open space areas by name and acreages in a table for each identified open space area, and included an Exhibit A, which appears by the language of the ordinance to have been a map.

* || 7. The City purchased 4.48 acres consisting of the South School site from the School District for use as a park in 1992; however, the City did not purchase the rear portions of the lots in question and the School District had no use for them. In January 1991 the District conveyed the back half of Lot 5 (westerly 51.5 feet) back to the private property owner at the time, Martin Cochran. Lot 4 was conveyed to the current owner, Francis Parker, in 1990.

8. In 1993, a Mrs. Fuhs purchased the entire Lot 5 from Cochran, and in 2003, the current owner purchased the entire Lot 5 from Fuhs. The current owner has provided a title report verifying this purchase, which also includes the above information regarding the school district conveyance.

9. In 1995, the City Council vacated Sunset Drive (an alley located at the rear of this property, and at the westerly edge of South Park). The vacated portion added another 10-feet to these properties as well as other properties located along Monterey Boulevard. The adjacent vacated alley is also designated open space on the General Plan map. The intent of this vacation was to convey ownership of the alley to the adjacent property owners. The vacation did not include a request for a zone change or general plan amendment.

11. In 1995, the City improved South Park

Analysis:

The property owner's land surveyor, Denn Engineering, has submitted a record survey indicating the total complement of property comprising South Park to be 4.48 acres. (Attachment No. 4) If the alley areas abutting the park and the subject lots are subtracted from the total park acreage, the net area corresponds closely to the total acreage shown in the list of open space properties prepared at the time the initiatives (Propositions N and O) were adopted, which was 4.43 acres. (Attachment No. 5). The owner's representative maintains that this net acreage (which excludes the subject parcels) demonstrates that the properties should never have been included in the designated open space and that the City's open space zoning boundaries for South Park which were established under the 1984 and 1986 initiatives are incorrect. The owners maintain that the land that was the subject of the initiative was never properly surveyed and that a lack of precision during the initiative process led to including their property with the land designated for open space.

While not conclusive for the reasons discussed above, both the map associated with the initiatives and the City's official maps from that era suggest that the subject properties were designated open space both before and at the time Measures N and O were adopted, while these properties were under School District ownership. That would mean that they are governed by the initiatives, and that the open space designation cannot be removed without a vote of the people. Subsequent events (sale of the site to the City excluding these parcels, and their subsequent sale to the private owners) make this result arguably unintended. The parcels are now in private ownership and have no use to the public as open space. Staff does not advocate retaining these parcels as open space. Placement of a measure on the ballot to correct this situation is the obvious remedy, and the only remedy that is completely free of legal doubt. According to the owners, the delay before the next municipal election (and the cost of a special election) presents an untenable hardship to them. Based on the documentary evidence, the City Attorney believes that neither he nor City staff has the authority to determine that the parcels are not governed by Measures N and O. For that reason, the property owners have requested that this matter be presented to the City Council for consideration.



Sol Blumenfeld, Director
Community Development

Concur:

Steve Burrell,
City Manager

Notes:

1. The permitted uses include: public and private parks, educational buildings and playgrounds, public and private recreation centers, public utility structures, trails for hiking and biking, public government buildings, historical monuments, public malls and plazas, land (public and private) where natural topography seismic hazards, and flooding condition preclude development, scenic areas, ocean and beach areas, transit uses which accommodate railroad tracks, signals and other operating devices, and movement of rolling stock and freight passengers, landscaping and appurtenances, wireless communication facilities.
2. Staff reviewed the option of developing the rear portion of the lot with uses allowed in the open space zone which may include required parking, recreational buildings, landscaping, a pool or spa and constructing a home on the front half of the lot. A home of approximately 2,200 sq. ft. may be constructed if the development plan is organized with required parking and open space located on the rear of the lot. Further, it is possible seek approval from the Planning Commission for a variance from lot coverage, front yard and open space restrictions due to the unique conditions of the property to further increase developable area on the lot.
3. Pursuant to Section 17.06.060 of the Zone Code. Any property which, for any reason is not designated on the zoning map as being classified in any of the zones established hereby, or any property annexed to or consolidated with the city subsequent to the effective date of the ordinance codified in this chapter shall be deemed to be classified as R-1 zone until the same shall have been otherwise classified in the manner set forth in Chapter 17.66.

Attachments:

1. Correspondence
2. 1984 and 1986 Open Space Initiatives
3. Zoning and General Plan Maps
4. Record Survey
5. Tabulation of Open Space Designated Properties

F:b95/cd/Cmemo517Loma