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Report to Mayor and City Council

Tuesday, October 22, 2019

Discussion

SUBJECT:

CONSIDER AN AGREEMENT WITH CAL STATE DOMINGUEZ HILLS REGARDING THE MASTER PLAN PROJECT

I. SUMMARY

The City Manager, Staff, and the CSUDH administration have been working hard the last month to try to resolve the City’s concerns regarding the CSUDH Master Plan and its EIR: mainly. 1) the Final EIR’s failure to properly analyze the cumulative impacts of the CSUDH’s Project-hence having the wrong base line, 2) CSUDH’s attempt to shift some of its traffic mitigation obligation analyzed and concluded by its own consultants in its own Final EIR onto to the City, 3) CSUDH’s approval of over 500,000 square feet of “business park” or “light industrial” and what that entails and whether that could result in truck intensive uses in the City without proper mitigation measures, 4) CSUDH’s refusal to subject the none-educational component of its development to the City wide Development Impact Fees and City wide Communities Facilities Districts for the mitigation of the impacts on the City, and 5) the need for a binding commitment from CSUDH that if the City agrees not to pursue its legal rights that CSUDH affirmatively agrees not allow logistics and truck intensive uses as part of the Master Plan.

At the October 15, 2019 Council Meeting, the City Council discussed a number of approaches to working with CSUDH on areas of specific concern to the City, including

some sort of binding agreement that the “research park” or “business park” development along Central Avenue would not be made available to logistics, trucking or warehouse uses; and, the construction of the traffic mitigation measures required in the Master Plan’s Final EIR. Councilwoman Lula Davis-Holmes, Mayor Pro Tem Cedric Hicks and Councilman Jim Dear called a special meeting for October 22, 2019 to approve such agreement based on promises from CSUDH. The urgency was to approve an agreement prior to October 23, 2019 which is the deadline for the City to appeal the inadequacies of the Master Plan’s Final EIR to a court.

The City drafted an agreement providing for CSUDH to ensure that no logistics, trucking or warehouse uses would be permitted to occupy the business park portion of the campus and for CSUDH to commit to paying 100% of the cost of the traffic mitigation required by their own Final EIR. The agreement also provided a mechanism for enforcement of these obligations.

CSUDH rejected the City’s proposed agreement and provided its own draft which stated that no logistics, trucking or warehouse uses would be permitted to occupy the business park, but did not provide any mechanism for enforcement of the agreement. More significantly though, CSUDH’s proposed agreement shifted a portion of the University’s cost of traffic mitigation to the City, notwithstanding the determination in its own Final EIR regarding its own responsibility for traffic mitigation. They also submitted a letter to the same effect (Exhibit 1).

The City’s negotiating team rejected CSUDH’s draft, responding that even if there is no enforcement mechanism on the logistics issue, at a minimum CSUDH must commit to comply with 100% of their own traffic mitigation requirements and allocation of responsibility provided in CSUDH’s own Final EIR and not shift their own responsibility under their EIR (as to which CSUDH has rejected the City’s comments) onto the City.

CSUDH through president Parham finally agreed that it would revise the agreement and provide another draft for the special council meeting consistent with such, but as of the posting of the agenda for the October 22, 2019 meeting, no revised draft had been received. The City has however received another letter from president Parham stating CSUDH agrees to not have any logistic uses with no enforcement measures (Exhibit 2). It is important to note, these letters are not binding. However, president Parham has committed to taking a negotiated Agreement to the Board of Trustees of the University some time in the future to get authorization for a binding commitment not to have logistics and truck intensive uses. This however will be after the deadline of the City’s rights to ensure that the Final EIR adequately addresses the City’s comments and concerns.

II. RECOMMENDATION

Staff has no recommendation at this time because CSUDH has not provided a revised draft of the agreement.

III. ALTERNATIVES

1. TAKE any other action the City Council deems appropriate.

1. IV. **BACKGROUND**

In 2016, CSUDH began formulation of a revision of their Campus Master Plan, which was last updated in 2010. A Draft EIR (“DEIR”) was circulated to the public for review and comment in the spring of 2019. The City commented extensively on the DEIR. On September 24, 2019, the Board of Trustees approved the Master Plan and certified the Final EIR.

CSUDH’s proposed project has an educational component including new campus academic buildings and campus-built student housing, which the City has always fully supported. However, the City raised concerns in its comments on the DEIR that a significant component of the project is completely private and did not have a specific educational purpose. These portions of the project include residential units and more than 500,000 sq.ft. of industrial/business park space proposed for the corridor along Central Avenue. Most of this development is not anticipated to be built by the University itself, but rather by private developers who would ground lease the land from CSUDH, thereby generating revenue for the University to fund other components of the project.

Fundamentally, much of the disagreement about the project between the City and CSUDH is over whether CSUDH - and any private developers constructing on its property - would be subject to City land use regulations, mitigation requirements, city wide development impact fees and city wide community facilities district assessments. CSUDH contends, since it is an entity of the State of California, neither it nor developers constructing projects on campus are subject to local land use controls and fees.

In addition, the City’s comments on the traffic analysis for the Master Plan focused on the inadequacy of the traffic mitigation measures and the failure to properly allocate responsibility for traffic mitigation 100% to CSUDH. It fails to consider all the new development in Carson as well. As highlighted in the October 15, 2009 Council Meeting, CSUDH rejected all of the City’s comments on the traffic analysis and mitigation.

On October 15, 2019, the City Council discussed giving direction to Staff and the City Attorney about what the Council wished to do about a number of concerns the City had previously raised in relation to the CSUDH Master Plan and its EIR. Earlier in the year the City had sent EIR comment letters, and Staff still had a number of concerns about project impacts from the private, for-profit components of the project. Staff sought direction from Council on whether to challenge the EIR by the statutory deadline, October 23.

During the EIR review period and preparation of the FEIR, CSUDH and its consultants did disagree with the City and its consultants over whether the EIR inadequately assessed environmental impacts in certain key areas, namely traffic. In addition, CSUDH also asserted that, as an entity of the State of California, it was not subject to either the City’s land use controls or its mitigation fee programs, the DIF and CFD.

At the October 15 meeting, the City Council gave direction to work with CSUDH on a voluntary agreement that would address several areas of specific concern to the City,

including a binding agreement that the “research park” or “business park” along Central Avenue would not be made available to logistics, trucking or warehouse uses; and, that CSUDH would be fully responsible for and undertake the construction of the traffic mitigation measures required in the Master Plan’s Final EIR.

Councilmembers Davis-Holmes and Dear, and Mayor Pro Tem Hicks, called for a special meeting at this date and time to consider an agreement with CSUDH that would provide for some of the assurances sought by members of the City Council. However, no such agreement has been finalized. The City will waive all its rights as of October 23, 2019.

V. FISCAL IMPACT

No expenditure of funds by the City is required. But if CSUDH and its private developers do not have to pay their fair share of city wide mitigation impact fees and city wide CFDs, the cost to the City is over tens of millions of dollars.

VI. EXHIBITS

1. Letter from Dr. Thomas A. Parham, President of California State University, Dominguez Hills, to Honorable Lula David-Holmes dated October 17, 2019
2. Letter from Dr. Thomas A. Parham, President of California State University, Dominguez Hills, to Honorable Lula David-Holmes dated October 18, 2019

1.

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