

Proposition E: City of Chula Vista – General Plan Protection Initiative

Board Recommendation:

OPPOSE

Rationale:

If passed, the General Plan Protection Initiative (GPPI) would require voter approval for any changes regarding height restrictions for new or existing buildings in the city of Chula Vista's General Plan. An assessment of the potential economic impacts of the proposal has been commissioned by the City of Chula Vista's Finance Department, but has not yet been released. Assumedly, this forthcoming report will provide detailed financial figures regarding the additional costs to developers to gather signatures and the additional cost incurred by the city to add a measure to a general election ballot when projects exceeding the current height limit are proposed. In the case of a special election, the administrative costs to the city would be significantly higher.

The staff recommendation of opposition to the GPPI is based on the additional administrative burden created by its provisions, not the additional changes in height restrictions the initiative calls for. The height restrictions in the GPPI are almost completely consistent with the city's approved 2005 General Plan, which places an 84 foot height restriction outside of specified development areas.¹

The true impact of the initiative is the imposition of a voter-approval requirement for any change to the city's General Plan that would allow an exemption to current height restrictions. This imposes a costly process every time a new building or expansion of an existing structure exceeding the current height limits is proposed, and also delays proposals that do not occur in election years (barring a special election).

The proponents of the measure argue that the GPPI eliminates the ability of special interests to influence changes to the height restrictions in the General Plan by forcing any potential developers to appeal directly to the public. However, the development of Chula Vista land-use documents such as the General Plan, as well as the more specified Urban Core Specific Plan, consisted of extensive community input.² The maintenance and amendment of the city's General Plan represents one of the City Council's duties as an elected body. The GPPI not only eliminates the Council's ability to modify the General Plan specifically regarding height restrictions, but the introduction of such a restriction sets an unusual precedent of requiring voter approval through an election, completely bypassing the local government decision-making process.

Background:

Chula Vista, the second largest City in San Diego County, "strives for a balance of attractive neighborhoods and strong business base, but holds fast to maintaining a sense of

¹ See the "Proposal" section of this document for an explanation of the exception.

² Chula Vista Urban Core Specific Plan

community and small town values upon which it was founded³.” A group of residents, with the purpose of maintaining this balance of business and community, has proposed a ballot measure to cap building heights at 84 feet (save for the Bayfront area, transit focus areas, the Eastern Urban Area and land west of I-5), amendable only by voter approval. Cities such as Del Mar, Encinitas and Carlsbad all have height restrictions within their downtown “village” areas.

Chula Vistans for Community Input II, a committee of Chula Vista property owners, and Crossroads II, a community group, support the initiative, named the General Plan Protection Initiative (GPPI). Earl Jentz, a local real estate investor in Chula Vista, funded a petition drive proposing the building height restriction initiative on the City’s buildings. Jentz was instrumental in the failure of the 15-story Espanada project, which was to have been a high-rise luxury condominium. ⁴The City Council successfully asked the courts to reject an initial petition on a technicality: the campaign published a legal notice in the *La Prensa*, which is technically not a Chula-Vista adjudicated newspaper of general circulation. The second petition attempt was received by the City Clerk’s Office on June 25, 2007, garnered the necessary 9,113 certified signatures, and is on the June 2008 ballot. According to proponents, the ordinance’s purpose is to “prevent the visual, traffic, character, and infrastructure impacts of high-rise and over-developed buildings.”

The City of Chula Vista created an Urban Core Specific Plan (UCSP) which rezoned large portions of the downtown area, although neither the 2005 General Plan Update or the UCSP has any height maximums over 84 feet. The UCSP represents the primary area affected by the proposal.

Proposal:

The ordinance would set a building height cap of 84 feet, from average contact ground level⁵ to the highest point on the building, freezing current height limits according to the City’s 2005 General Plan Update. The City Council would not be permitted to alter height restriction components of the General Plan. Instead, a majority of Chula Vista residents would be required to approve any amendment to the Plan to modify limits above 84 feet.

Additionally, the initiative would restrict building heights in the Third Avenue Village, located on Third Avenue between E and G streets, to a maximum of 45 feet. However, as described in the Land Use element of Chula Vista’s General Plan, no voter approval will be necessary for any change to the General Plan affecting the Bayfront Planning Area, Eastern Urban Center, trolley station areas, or land west of I-5, where transportation capabilities and existing neighborhoods can accommodate higher-capacity structures nearby.

The question before voters will read:

“Shall the ordinance amending Chula Vista’s General Plan to require voter approval for General Plan changes increasing allowable building heights

³ City of Chula Vista: History webpage.

⁴ *The San Diego Union-Tribune*; \$11 million later, developer halts big condo plan; Amy Oakes; October 7, 2005.

⁵ Average of where the entire building touches the ground.

above 84 feet in most areas of the City, and setting a building height limit of 45 feet in a designated area on Third Avenue be adopted?”

There are several exceptions to the initiative. First, the General Plan and the initiative exempt the Bayfront area and all land west of I-5 from height restrictions, allowing high-rise buildings to be built on the Bayfront. Additional designated high-rise areas near the “E” Street trolley station, the “H” Street trolley station, and the newly created Eastern Urban Center next to State Route 125 also represent exemptions to the provision. The initiative will only apply to land outside of these designated areas, restricting building height limits to 84 feet.

The proposal primarily affects the newly adopted Urban Core Specific Plan (UCSP), which caps most, but not all, of Third Avenue Village buildings at 45 feet. The initiative will restrict four additional sections of the Third Avenue Village that still permit buildings up to the 84-foot height limit.

If the initiative passes, this rule can only be bypassed through a simple majority vote of the public, and will apply to every project that has not already begun substantial construction. In the case of a discrepancy between this ordinance and the General Plan, the provisions of the initiative will prevail; in the case of a discrepancy between federal or state laws and this ordinance, federal and state laws will prevail.

Land and Construction Impact:

As stated above, the GPPI leaves the Bayfront area, Eastern Urban Center, and transit focus areas unrestricted in height. However, large sections of the Urban Core Area may be impacted by the initiative. The UCSP divides the Urban Core Area into sub-districts, each with its own set of development standards. Special regulations are in place to “insure that the character of zones within the Specific Plan area will be compatible with and complement surrounding residential areas.”⁶ The guidelines of several sub-districts may permit buildings over 84 feet with City Council approval of changes to the General Plan, while the GPPI enforces the 84-foot height restriction in these areas unless voters approve an amendment.

Within the Urban Core, several anticipated development projects stand to be directly impacted by this initiative, including a four-year university with dormitories. A height limit decrease from 84 to 45 feet would also affect a proposed senior center and expansions to Scripps Mercy and Sharp Chula Vista Medical Center.

The initiative states that “notwithstanding any contrary City ordinance, policy or regulation, the provisions of this initiative shall be applicable to every project which has not a permit validly issued by the City of Chula Vista to complete construction of a building in accordance with the terms of that permit at the time the Notice of Intent to Circulate this petition was published, or June 30, 2007, whichever is later.” In essence, the initiative is retroactive: changes to, or cancellation of current construction projects may be mandated as a result of the GPPI, including several buildings along “H” street and Third Avenue.⁷

⁶ Chula Vista Urban Core Specific Plan.

⁷ Nancy Lytle, Chula Vista Assistant Director of Planning.

Fiscal Impact:

A recent Economic and Planning Systems study finds that the four major development regions within Chula Vista are the Bayfront area, the Urban Core Area, the University Park and Research Center, and the Eastern Urban Center. The GPPI will leave all but the Urban Core Area essentially unaffected. These developmental areas may attract new businesses and services, creating various opportunities for sources of tax revenue growth.

Multiple reports indicate that the initiative will have little or no fiscal impact within the Urban Core Area, the primary region affected by the initiative. Economic Research Associates maintain that parking and construction costs would prevent high-rise mixed-use developments from generating prospective value. As a result, the Chula Vista Planning and Building Director to the City Council concluded, “the proposed initiative would not appear to prevent the City from achieving its goals of facilities financing.”⁸

Meanwhile, a study commissioned by the City of Chula Vista regarding the potential economic impacts of the GPPI has been commissioned, but not yet completed and released.

Proponents:

- Chula Vistans for Community Input II
- Crossroads II

Opponents:

- Chula Vista City Council (voted 3-0 for Mayor Cox to submit argument opposing)
- Chula Vista Chamber of Commerce

⁸ Planning and Building Director to the City Council report, May 15, 2007.