

Pacific View Site Activation Subcommittee Report to City Council, April 8, 2015

The Pacific View Site Activation Subcommittee met on March 3, 2015, following Council direction from Feb. 11, 2015. The Subcommittee presented some options regarding next steps and sought feedback from the public. The goal of the meeting, attended by approximately 40 people, was to define the process that the Subcommittee could propose to the full Council for selecting an “Operating Partner” for Pacific View. The following recommendations reflect the views of the Subcommittee, incorporating public comment and technical input from staff.

The Subcommittee’s approach was to define, as clearly as possible, the goals and values of the Council, on behalf of the community, and the basic framework for a relationship between the City and a private entity we refer to as the Operating Partner. In a desire not to arbitrarily constrain the creativity of potential proposers, we recommend not specifying any more detail than absolutely necessary, so we can be surprised, inspired, and enchanted by the proposals we receive. At the same time, we need to be clear on what would and would not be acceptable so we don’t waste anyone’s efforts developing proposals that clearly would not be considered.

Starting Assumptions (based on past Council deliberations and public input)

1. Operating Partner can be a for-profit or not-for-profit organization. However, in accordance with the Encinitas Municipal Code, the definition of museum specifies “non-profit institution.” Other uses could be for profit.
2. The financial relationship between the City and the Partner would be specified in a contract that would reflect the relative contributions of both parties and the goals of the collaboration.
3. We expect the Operating Partner to have a range of capabilities, and thus will likely involve a coalition of organizations, but the City would not define the organizational structure (i.e., partnership, subcontractors, new entity, etc.) This gives maximum flexibility for community groups to self-organize.
4. The City will be reviewing proposals for technical qualifications. We have a clear obligation to ensure that any Operating Partner is competent, financially viable, and holds appropriate licenses for the work being proposed.
5. The final review and selection process will be defined by the Council
6. The initial term of an agreement with the Operating Partner should be five years with options for extension or early termination under conditions to be agreed. The City should consider proposals that offer alternative timing with appropriate justification.
7. There is no guarantee of City funding for the construction or operation of the facility. Financial considerations should be one, but not the only criterion for selecting the partner.

Proposed Role of the Operating Partner

The Operating Partner would be responsible for planning interior spaces and exterior landscape, building rehabilitation, and site operations, including all the structures and the open space.

Planning: The selected architectural consultant will provide drawings and cost estimates to bring the structures into code compliance for possible uses as specified by the Council. The Operating Partner would take those drawings and cost estimates and develop a final plan for site activation.

The plan would begin with defining the specific proposed primary use(s). The list of potential uses approved by the Council in February was “Arts, Education and Community Gathering Place with an emphasis on Theaters, Museums, Education, Outdoor Sales/Swap meets and park/recreation space.” The appendix to this report summarizes uses for the Public/Semipublic Zone and associated permitting requirements. The Subcommittee recommends that the primary use(s) proposed will focus on a museum to reflect the historical aspects of the site, the consistency with existing zoning, and the flexibility in integrating a variety of user interests. Accessory uses could include arts instruction, a café, museum shop, a performance space, farmers market, and/or occasional outdoor performances. We do not anticipate any proposals for swap meets as a primary use. The Subcommittee and staff have tried to be very clear that any proposed use will carry with it certain permitting requirements. Proposals will have to address the timeline and potential issues associated with whatever uses are proposed, including recognition that the Pacific View site is situated within a residential neighborhood and appropriate consideration will be needed in addressing traffic, parking, and noise impacts.

The Subcommittee recommends that preference be given to designs that:

- Are appropriate to the site in terms of community character
- Respect and enhance the local ecosystem
- Reflect best practices and innovation in environmental sustainability
- Are aesthetically pleasing
- Include areas optimized for a variety of uses such as the visual, performing, literary and folk arts, ecological education, outdoor passive use
- Comply with the existing zoning and proposed primary use. For example, if the primary use is as a museum, include features to enable the public to observe and learn about the activities being undertaken
- Provide administrative office space for City staff use, at the City’s discretion subject to Planning Commission agreement on this interpretation of the zoning matrix.
- Are cost-effective to create, operate and maintain

Build: The Operating Partner will be expected to have appropriate construction licenses and experience to execute the design being proposed. The proposals should include timelines for any proposed construction work.

Site Operations: The Subcommittee recommends that the OP proposal describe its plans for scheduling and managing the site. Depending on the form of the OP entity, the primary users might

be partners within the OP, or could be outside organizations. The operation of the site must be consistent with the proposed primary and accessory uses and the related permits and constraints.

A clear operations plan should be provided, including:

- Basic operating principles, e.g.,
 - Description of the types of users (e.g., children, adults; musicians, dancers, sculptors, etc.);
 - Any preferential opportunities for Encinitas residents/organizations; estimated costs to users;
 - How space will be allocated (e.g., any exclusive arrangements for particular organizations)
 - Outdoor space utilization plan (e.g., passive use, planned activities, supervision)
 - Hours of operation
- Proposed governance structure, e.g.,
 - On-site manager
 - Oversight board
 - Relationship to City Arts Administration and/or Commission for the Arts
- Timeline for site activation (phasing plan if appropriate)
- Security
- Public outreach and community engagement strategy, including opportunities to present City arts programs at Pacific View

Finances: The Subcommittee has made clear to the public, based on recent Council action, that there is no site activation funding set aside or guaranteed for this effort.

The Operating Partner must demonstrate financial viability. The Subcommittee recognizes that this is an unusual project that could hit unanticipated challenges. Therefore, the City needs assurance that the Operating Partner is financially resilient and can be successful even if there are a few bumps in the road. The proposal should include a business plan describing the proposed budget for site design, construction and operation, including expenses and revenues. If public funding is requested, we recommend that the Operating Partner proposals specify their requirements for:

- Initial site preparation (e.g., basic code compliance efforts as defined in the architect report)
- “Tenant improvements” (one-time costs for design and construction beyond code compliance to provide spaces ready for use)
- Ongoing operations costs

We also recommend that proposals describe outside resources that the Operating Partner proposes to bring to the project. This could be in the form of in-kind contributions, volunteer labor, or funding from donors or grants.

The ultimate contract with the Operating Partner should spell out the financial relationship between the OP and the City. The Operating Partner proposal should define the OP's preferred financial relationship to the City. Some examples of possible financial arrangements are: a matching grant in which the OP would receive funds from the City in direct proportion to private funds invested; a one-time grant from the City for site activation; a loan from the City to the OP to be paid back over a defined period of time based on revenues from site users; an annual lease fee from the OP to the City; an annual subsidy from the City to the OP; or a "profit-sharing" arrangement in which revenues in excess of expenses would be shared between the City and the OP based on a formula to be agreed. In evaluating proposals, the review committee and ultimately the City Council will have to weigh public costs and public benefits, which include the financial arrangements but also much more. The proposals should make the case for whatever financial relationship is proposed.

Selection Process: The Subcommittee proposes that a review committee be formed, to include City staff with expertise in finance, engineering, planning, arts, as well as one or two outside experts from organizations that have established community arts/culture centers elsewhere (e.g. Fallbrook Arts Center, Space4Art, Oceanside Museum of Art, Santa Cruz Museum of Art & History, Arts Administrator from a neighboring city).

Because of the complexity of this project, staff and the Subcommittee propose a two-step evaluation process. Interested entities would first be invited to submit a confidential "Letter of Intent" or "Statement of Qualifications" that would outline at a high level their proposed use of the site and their qualifications for the job. The Review Committee would look for any fatal flaws in any of the proposals and provide feedback to the proposers. This step is intended to prevent any organization whose proposal is clearly outside the boundaries of the City's intent from investing the time and effort needed to do a full proposal, only to learn that they were off the mark. Those entities whose pre-proposals that are deemed eligible for consideration would then be invited to submit a full proposal 45 days later.

The Review Committee would bring to the full Council their top 2-3 candidates along with a recommendation for Council approval, and supporting analysis to explain their recommendation.

The fundamental criterion for selection should be the benefits to the community relative to the cost to the City. In order to determine that, the Subcommittee recommends these proposed evaluation criteria, based on Subcommittee work and public input, are (in no particular order):

1. Financial viability of organization
2. Initial cost to the City
3. Revenue-earning potential
4. Investment by proposer (resources OP brings to the City)
5. Technical competence (relevant experience in design, construction, site management, arts administration)
6. Governance model; relationship with City Arts Administration
7. Local involvement (Encinitas residents/organization)
8. Consistency with relevant zoning
9. Serving diversity of users and types of uses

10. Design and innovation, including compatibility with local ecosystem and community character and site heritage
11. Green/sustainability attributes
12. Unique need for this space (i.e., no comparable alternative sites readily available)

Other: The Subcommittee identified several other matters that need Council attention.

Definition of “Education” to include arts: the Subcommittee recommends that the Planning Commission be asked to interpret “education” in the zoning code as explicitly including arts education. The Subcommittee points out that colleges and universities typically include degrees in the arts such as musical composition and performance, conducting, theater, film, and dance. The Subcommittee notes that such an interpretation does not supersede the permitting requirements for private education, nor the distinction between “education” and “museum” as primary uses.

Permits: The Subcommittee and staff have emphasized that any proposed use of the site requires a Coastal Development Permit. Neighbors have recommended that a conditional use permit be processed in parallel to authorize the range of potential uses envisioned by the City and the selected Operating Partner, both to lay a strong foundation for future site utilization and to memorialize decisions about allowable activities. The Subcommittee recommends that the City assume the cost of initial fees associated with any required permits.

ACTION REQUESTED:

The Subcommittee requests that the Council receive and approve the report and authorize staff to prepare a two-step request for proposals and a review process as described above.

Appendix: Zoning for Pacific View Site

Zone: Downtown Encinitas Specific Plan, Public/Semi-Public (D-P/SP)

The D-P/SP Zone is intended to provide for activities operated by the City, county or other governmental agencies such as the Encinitas Fire Protection District, school districts, water districts, and sewer districts. Other semi-public and private uses, such as hospitals and recreational facilities, are also allowed.

The D-P/SP Zone references Chapter 30.28 for allowed uses and development standards. Please see below for a listing of the uses permitted in the D-P/SP Zone by right, with a minor use permit, or with a major use permit. Uses permitted by right but not located within an enclosed building require a minor use permit. Design Review may also be required.

Additionally, there may be uses that are similar to the uses listed below that are not expressly permitted in the D-P/SP Zone. If the Planning Commission is able to make a positive Determination of Allowable Use for uses similar to the uses listed below, those similar uses could be allowed and regulated in the same manner as the use(s) to which it is similar. However, and importantly, use types that are otherwise listed as prohibited in the P/SP cannot be found to be allowable through the Determination of Allowable Use process.

Following the list of uses are definitions for the uses in ***bold italic***.

Uses Permitted by Right

Ambulance Service (private)
Athletic Field (*public gathering*)
Auditorium (*public gathering*)
Educational Institution, Public (education)
Fire Station
Library (*arts/culture*)
Medical/Dental Office
Museum (arts/culture)
Parks and Recreational Areas (*recreation*)
Police/Sheriff Station/Jail
Post Office
Public Utilities, Office
Recreational Facilities, Public (recreation)
Schools, Public (K-12) (education)
Sewage Treatment Plant
Theaters and Places of Public Assembly (*public gathering*)

Uses Permitted with a Minor Use Permit

Courts, Commercial (Badminton, Tennis, Racquetball, Other) (*recreation*)

Fish Hatchery
Hazardous Household Materials Collection Center (see EMC Ch. 30.57)
Hiring Hall
Outdoor Sales
Surf Shop, Retail, with or without manufacturing
Swap Meet

Uses Permitted with a Major Use Permit

Animal Shelter
Camps
Cemetery
Church/Temple/Religious Institution
Convent and Monastery
Educational Institution, Private
Electrical Distribution Substation
Electrical Transmission Substation
Equestrian Establishment
Fleet Storage
Garage, Public Parking
Golf Driving Range (*recreation*)
Horses, Raising
Hospital
Hospital, Convalescent
Hospital, Nursing
Hospital, Mental
Medical Complex
Observatory (*arts/culture*)
Open Air Theater (*public gathering*)
Public Utility Service Yard
Recycling Facilities
Residential Care, General (7 or more)
Schools, Private (K-12) (education)
Schools, Technical (*education*)
Stable, Commercial
Stadium (*public gathering*)
Storage of Sand, Gravel, Etc.
Terminals and Stations (Taxi, Bus, Limousine, etc.)
Towing/Impounding of Vehicles
Transient Habitation

Definitions

EDUCATIONAL INSTITUTION shall mean an institution conducting regular academic instruction at kindergarten, elementary, secondary, collegiate levels and including graduate schools, universities, non profit research institutions, and religious institutions.

FLEET STORAGE shall mean storage or parking of one or more vehicles used regularly in business operations. Excluded from this use type are automotive and equipment; sales/rentals; and the incidental parking of vehicles as an accessory use to a permitted use on the same premise. Typical uses include taxi fleets, mobile catering, truck storage or delivery truck fleets.

HOSPITAL shall mean an institution for the diagnosis, care, and treatment of human illness, including surgery and primary treatment.

MEDICAL COMPLEX shall mean a development including several medical services under one, integrated complex typically with a medical hospital as the most significant principal use; other principal uses may include doctors' offices, laboratories, medical research facilities, out-patient clinics, pharmacies, and other out-patient services. All uses are integrated functionally on the single complex with shared parking, ingress/egress, building design and landscaping.

MUSEUM shall mean a non-profit institution displaying or preserving objects of artistic, scientific, cultural or historic value, and optionally creating objects with these values for the purpose of display on site.

RECYCLING FACILITY shall mean a center for the collection and/or processing of recyclable material.

RECREATIONAL FACILITIES, PUBLIC AND SEMI PUBLIC shall mean swimming pools, tennis courts, paddle tennis courts, and other similar uses as determined by the Planning and Building Director, which are available for use by persons who do not reside in the project (includes membership clubs.)

SCHOOL shall mean any institution of learning for minors, whether public or private, offering instruction in those courses of study required by the California Education Code and/or which is maintained pursuant to standards set by the Board of Education of the State of California. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education under the jurisdiction of the California Department of Education. For the purposes of this Section, "school" does not include a vocational or professional institution of higher education, including a community or junior college, college, or university.