

11/13/2003 10:07 PM

Sandy, notes to you are highlighted in yellow.

Alba, notes to you are highlighted in green.

**SANTA CLARA CAMPUS
SUN MICROSYSTEMS, INC.
Teaching Note**

Major Teaching Objectives:

This case study is designed to assist instructors in introducing and discussing the following land use topics. In some instances, such as with charter versus general law cities or development agreements, the case study provides a platform for explaining the difference between these two types of municipal governance. The instructor may wish to gloss over these topics or take time in class to give “mini-lectures” on the subjects. In other cases, such as with CEQA litigation or conservation easements, the case study and teaching note provide opportunities for in-depth analysis and substantial information about the topics.

- CEQA litigation
- Historic Preservation
- Conservation and Historic Easements
- Referendum
- Development Agreements
- Redevelopment
- Disposition of state property
- Stakeholder analysis
- Site Evaluation
- Charter vs. General Law cities

(case study pp. 1-2)

Site Issues

The case study asks students what other questions Sandy should raise in the course of interviewing the planning directors of the two cities in which the three potential sites are located. The following are some of the fundamental questions that should be included in Sandy’s list. No doubt students will come up with other ideas. The instructor should lead the students in a discussion of the questions, including why each is important and whether it is possible to prioritize the questions. Exhibit 1 contains a completed chart (the first page of which is Exhibit A to the case study) detailing local jurisdiction development standards, related requirements and parameters for application review. This chart can be used as a guide for the instructor in discussing the likely answers Sandy will receive from the planning directors.

Exhibit B to the case study shows several maps of the site location and one scanned photo. The instructor should make sure the students realize the relatively less developed nature of the Agnews Site as compared to surrounding properties. Sandy, are there any other points you would make using the site maps?

Questions Sandy should use during her meetings with Santa Clara and San Jose Planning Directors include:

1. What is the City’s current attitude toward development?

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- on this site?

2. Is the site in a Redevelopment Area (use class time briefly to explain how Redevelopment Areas work, typical incentives to developers, etc.)?
3. Are “incentives” available to Sun? (Use Exhibit A as basis for discussion)
4. What are the major environmental issues in the area?
 - traffic?
 - biology issues?
 - contamination? (some prior industrial uses)
 - noise?
 - loss of open space?
 - natural hazards?
 - historic issues?
 - Native American resources?
5. What are the standard impact fees required by the City for Development?
6. What other “exactions” is the City looking for?
7. What are the nearby neighborhoods?
 - What are their issues?
 - Who are the neighborhood leaders?
8. What are the politics on the City Council?

(case study p. 3)

Exhibit C to the case study contains the text of SB 1770 which the students should use to help answer the questions posed in the case study (below).

Sandy, we need to provide answers to these questions in this teaching note:

1. Did the State need to go out to bid?
2. Did the State need to choose the highest bidder? If not, how would the State choose the purchaser?
3. Would negotiations need to be conducted in public? How long would the process take?

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Sandy, we should elaborate here about why, if the Agnews Site is exempt from local zoning, the City of Santa Clara is involved at all.

Stakeholder Analysis

(case study p. 4-5)

The instructor should use Exhibit 3 as her guide in walking the students through discussion of the major interested parties, their respective goals, common objectives where they exist, and deal breakers. Special attention should be given to stakeholders who have sub-stakeholder groups, such as the State and the City. These groups do not necessarily speak with one voice or coordinate between and among themselves, but they may be perceived collectively as one group to outsiders.

Purchase Agreement Issues: Coordinating Property Purchase with Approvals, Capping Mitigation Costs and Relocating the Emergency Housing Consortium

(case study pp. 6)

Exhibit 4 contains an excerpt from the Purchase Agreement and details how Sun ensured that all necessary land use approvals would precede actual purchase of the property. The exhibit also shows how Sun used the Purchase Agreement to minimize mitigation costs and condition the sale/purchase on expiration of all statutes of limitations for any appeal or legal or voter challenge to the deal.

Exhibit 5 is another excerpt from the Purchase Agreement. It details how Sun, the State, and the City's Redevelopment Agency elected to work together on relocation of the Emergency Housing Consortium, the primary non-profit located on the Agnews Site. Sun actually built the new Emergency Housing Consortium facility next to the pre-existing electrical substation. This was a desirable location from the non-profit's perspective. The cost of building the new structure for the non-profit was then deducted from the purchase price of the Agnews Site. Sandy, did I get this right? How much do you want to mention the capped costs, if at all?

CEQA Compliance and Gaining SHPO Concurrence

(case study pp. 6-7)

Exhibit 6 contains a longer, thorough memo regarding CEQA compliance issues. The students can use the general introduction to CEQA provided in Exhibit F to write their own expanded version of the short memo supplied in the case study. This can be given as a writing assignment to the students in advance of the class discussion of the case study.

Sandy, what additional insights can we provide regarding working with SHPO?

The Ralph M. Brown Act: Open Government Laws and Applicant Communication with Elected Officials

(case study p. 9)

Exhibit 7 contains a nice discussion of how Sun can avoid inducing violation of the Brown Act. This is another potential writing assignment for the students. Students should be encouraged to consult the following web sites for more information about the Brown Act, ethics and open government generally:

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<http://www.ilsg.org/userfiles/godoc/7875%2EOpenGovernment%2Edoc> (nice overview of open government issues and principles)

http://caag.state.ca.us/publications/2003_Intro_BrownAct.pdf (full text of Brown Act)

<http://www.cacities.org/doc.asp?id=518> (users guide to the Brown Act)

Historic Easement and Public Access

(case study pp. 9-10)

Sun's concerns:

Sun, like all computer companies, was concerned about security and preventing theft of equipment and ideas. Sun's RE Group was afraid that, after spending millions to rehabilitate historic buildings, the public would misuse and abuse them and maintenance costs would soar. Sun's Public Relations Department was worried about repercussions if "public space" was used for "public demonstrations" or political purposes.

The City's concerns:

The City staff viewed the historic buildings to be rehabilitated as an asset for the entire City to appreciate. They thought it appropriate for the public not only to have an opportunity to view the historic buildings but also to use the buildings that had usable public space. This was a fair trade, they thought, of demolishing the many other historic buildings. Sandy negotiated vigorously on behalf of Sun to make sure that the buildings were used in a controlled way by members of the public and that certain rules and regulations would be implemented. At the same time, she worked with Sun's RE Group to convince them that the entrance to their campus could be used by the public without compromising Sun's high standard of maintenance and its need for the office buildings to be secured.

Exhibit 8 contains the Historic Easement and Access to Historic Easement text actually used by Sun and Santa Clara.

Development Agreement

(case study pp. 10-11)

The instructor may wish to lead the students in a discussion of the pros and cons of development agreements and how they compare with other approval vehicles, such as vesting tentative maps.

CEQA Litigation

(case study pp. 12-13)

The instructor should review with the students the weaknesses of Petitioner's Trial Brief (Exhibit U to the case study) using Exhibit to the teaching note as her guide. Exhibit ___ contains the Trial Brief of Respondent City of Santa Clara in Opposition to The

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Petition for Writ of Mandate (Alba, I believe you've scanned this document, it just needs to be loaded onto the teaching note exhibit site). Sandy, here explain the major weaknesses of Petitioner's brief.

After a hearing on March 17, 1998 the Superior Court judge ruled in favor of the City, finding that the City had proceeded in accordance with the law and its decision would be allowed to stand. In return for payment of their legal fees, Petitioners decided not to appeal the Superior Court decision.

Referendum

(case study pp. 13-14)

The instructor should review general issues regarding direct democracy (initiative, referendum, and recall) in the context of land use planning and decision-making.

Sun decided ultimately that it needed to proceed with the development agreement and election for two reasons: First, given how controversial the Sun project was, it was possible a new city council could prohibit the development of the Sun campus, or at least part of it, if a future city council chose to change the zoning at a later date. Second, because the project was so controversial, but Sun felt strongly that the majority of the citizens supported it, it welcomed the opportunity to have an election so that it could become clear that the majority of citizens in Santa Clara thought the project a sound one.

Since Sun's project was approved in October 1997 and the next regular City election was not until November 1998, the City Council decided not to postpone a decision on the project almost a year - - it set a special election for June of 1998. Sandy began to formulate ways she, as an attorney, and not a public relations manager or politician, should be involved in this campaign. The instructor should lead a discussion of how Sandy could/should be involved in the campaign.

Once the City Council set the election, the City Attorney was required to place a ballot measure on the ballot and prepare an impartial analysis. Both the supporters and the opponents of the Sun project had an opportunity to choose five citizens to write ballot arguments in favor of and in opposition to, the Development Agreement. Then the same citizens who wrote arguments for and against the project had an opportunity to rebut each other's arguments. Sun began to work with a public relations firm on a campaign. Refer to Exhibit _ containing Sun's two-page "Overview" discussion of the benefits of its Agnews redevelopment proposal and the formal brochure prepared by Sun entitled "The Sun is About to Shine on Agnews & Santa Clara (Alba I believe you have scanned this already -- it needs to be loaded on teaching note exhibit site).

For 10 days after these arguments were prepared, the City Clerk and any interested party had a right to file a lawsuit claiming an argument contained false or misleading material. Lawsuits flew in all directions and newspaper articles became more frequent. See Exhibit _ (we need to scan and post these articles -Alba I believe they were scanned). The final Impartial Analysis, Primary Arguments and Rebuttal Arguments were all then printed in the election material mailed to voters.

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On June 2, 1998 the election was held and 65% of the voters voted for the Sun project. The opponents claimed Sun had “bought” the election. Sun claimed the almost two-thirds vote vindicated the decision of the Council.

Epilogue

Today, Agnews Village is gone and Sun employees occupy almost 1,000,000 square feet of space on the Santa Clara campus. Four historic buildings along the entrance to the campus and most of the mature landscaping on the 82.5 acres is preserved. The public and Sun share access to the auditorium and mansion in a public-private partnership.

Sandy, I know there are tons of great insights and information we should add to this teaching note. If you want to add anything before Monday/Tuesday’s classes, I’d love it. But I do plan on taking extensive notes through our discussion of the case study, so we can also add a considerable amount after the class meetings.

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The current Teaching Note Exhibit list is as follows:

- 1: Full site comparison/overview chart
- 2: Six pages of site maps/graphics
- 3: Full version of interested parties chart
- 4: Excerpt from Purchase Agreement relating to how Sun coordinated land use approvals and conditioned purchase of the site on acquisition of all necessary land use approvals (page 17 from Purchase Agreement, section 5.3)
- 5: Excerpt from Purchase Agreement relating to how non-profits currently located on the Agnews site would be relocated (page 15 from Purchase Agreement, section (h))
- 6: 9/18/96 memo to Bill Agnello from Sandy Sloan regarding CEQA compliance and SHPO concurrence letter requirement for state-owned historic structures
- 7: Undated (Sandy, should we put a date on this memo?) Memo to Bill Agnello from Sandy Sloan regarding compliance with the Ralph M. Brown Act
- 8: Historic Easement Agreement and Access to Historic Easement Agreement, dated 9/4/98