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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT

JOHN GLYNN ERICKSON et al.,

Plaintiffs and Appellants,

v.

CITY OF CLOVIS,

Defendant and Respondent;

PEACH AVENUE PARTNERS LLC.,

Real Party in Interest and Respondent.

F063526

(Super. Ct. No. 10CECG02595)

**OPINION**

APPEAL from a judgment of the Superior Court of Fresno County. Mark Wood Snauffer, Judge.

Herum Crabtree, Brett S. Jolley, and Natalie M. Weber for Plaintiffs and Appellants.

Lozano Smith and David J. Wolfe for Defendant and Respondent.

Best Best & Krieger and Sara E. Owsowitz for Real Party in Interest and Respondent.

Plaintiffs filed a petition for writ of mandate to challenge the approval by the City of Clovis (City) of a proposed retail commercial center at the northwest corner of Herndon and Peach Avenues. The trial court denied the petition.

Plaintiffs appealed, contending that City's approval of the proposed project violated the Planning and Zoning Law (Gov. Code, § 65000 et seq.) because the project was not consistent with (1) the general plan's requirement for mixed use development of the site, (2) the specific plan's designation of the project site as planned mixed use, and (3) the proper zoning for the site.

Applying the arbitrary and capricious standard of review, we conclude that City's interpretation of the plan provisions and its resulting consistency determinations were reasonable under the circumstances and, consequently, City's approval of the project should be upheld.

We therefore affirm the judgment.

### **FACTS AND PROCEEDINGS**

In December 2009, real party in interest Peach Avenue Partners, LLC sent City a planning application for site plan review of a proposed commercial shopping center at the northwest corner of Herndon and Peach Avenues. The site plan for the 11.36 acre lot contained a 94,683 square foot supermarket, pads for three other stores ranging from 5,000 square feet to 6,500 square feet, and 547 parking spaces.

On March 16, 2010, City's planning department issued a letter approving the application, provided that Peach Avenue Partners agreed to 73 conditions attached to the letter. Like the parties, we will refer to the approved application and related conditions as the "2010 Site Plan." The planning department's letter included statements that the 2010 Site Plan was consistent with (1) City's General Plan designation for Mixed Use Area #2, (2) the Herndon Shepherd Specific Plan designation of planned mixed use, and (3) the

zoning designation of C-2 (Community Commercial).<sup>1</sup> These consistency determinations by City are the subject of this litigation.

City's planning department's approval of the 2010 Site Plan was challenged in an administrative appeal. In May 2010, City's planning commission denied the appeal. A further appeal was denied by the city council in June 2010. The planning commission and the city council both found "that the Project is consistent with the General Plan and Herndon Shepherd Specific Plan, and applicable zoning ...."

In July 2010, Gongco Fresno, Inc.,<sup>2</sup> John Glynn Erickson, Agustin Alonzo, Jr., Jessica Marrie Fain, Arthur Andy Grijalva, and Manuel Magoo Tamez<sup>3</sup> filed a petition for writ of mandate that sought to vacate City's approval of the 2010 Site Plan. Hearings on the petition for writ of mandate were held by the trial court on February 18, and March 18, 2011. After the hearings, the court accepted supplemental briefing.

On June 24, 2011, the court issued a written statement of decision and order denying the petition for writ of mandate. The court addressed plaintiffs' inconsistency arguments and concluded that the 2010 Site Plan was consistent with the Community Commercial zoning at the project site and the zoning was consistent with the General Plan and the Herndon Shepherd Specific Plan.

In July 2011, the trial court filed a judgment denying the petition. Plaintiffs filed a timely notice of appeal from the judgment.

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<sup>1</sup> Chronologically, the Herndon Shepherd Specific Plan was adopted first in 1988, followed by City's General Plan in 1993. The present zoning for the project site was approved in 2001.

<sup>2</sup> Gongco Fresno, Inc. owns real property approximately 3.5 miles from the project and its anchor tenant on that property is a "Food 4 Less" franchise supermarket. The tenant for the proposed supermarket, Winco Foods, would compete with the Food 4 Less store.

<sup>3</sup> Only John Glynn Erickson, Agustin Alonzo, Jr., Jessica Marie Fain, and Arthur Andy Grijalva (collectively plaintiffs) pursued this appeal.

## DISCUSSION

### *I. STANDARD OF REVIEW*

In determining whether plaintiffs' writ petition should have been granted, we do not review the trial court's decision. (*California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, 637.) We, like the trial court, review the agency's decision. (*Ibid.*) When that decision concerns a proposed project's consistency with a general plan, the arbitrary and capricious standard of review applies. (*Ibid.*) In particular, courts inquire "whether the decision is arbitrary, capricious, entirely lacking in evidentiary support, unlawful, or procedurally unfair." (*Ibid.*)

The requirement of evidentiary support is essentially the same as the substantial evidence test. Both ask whether a reasonable person could have reached the same conclusion on the evidence. (*California Native Plant Society v. City of Rancho Cordova, supra*, 172 Cal.App.4th at p. 637.)

When addressing a claim of inconsistency between a project and a general plan, courts must keep in mind the deferential nature of their review. (*California Native Plant Society v. City of Rancho Cordova, supra*, 172 Cal.App.4th at p. 638.) Courts do not substitute their judgment for that of a local agency in making a determination of consistency. Rather, the agency's determination comes to the court with a strong presumption of regularity. (*Ibid.*) "Thus, as long as the City reasonably could have made a determination of consistency, the City's decision must be upheld, regardless of whether *we* would have made that determination in the first instance." (*Ibid.*)

Deference, however, is not abdication. (*California Native Plant Society v. City of Rancho Cordova, supra*, 172 Cal.App.4th at p. 642.) Courts do not defer to an unreasonable interpretation of a general plan. (*Ibid.*) For example, in *California Native Plant Society v. City of Rancho Cordova*, the city's general plan directed the city to design mitigation for certain wildlife species "in coordination with" the United States

Fish and Wildlife Service and the California Department of Fish and Game. (*Id.* at p. 635.) Opponents to the project argued that the city did not coordinate with the Fish and Wildlife Service because it approved the project over the Fish and Wildlife Service’s repeated objections that the proposed biological resource mitigations measures were inadequate. (*Id.* at p. 641.) The city interpreted “coordination” to mean trying to work with someone else and as synonymous with “consultation.” (*Ibid.*) The court rejected this interpretation as unreasonable under the particular circumstances and concluded that “coordination” required a measure of cooperation. (*Ibid.*) Based on that definition, the court determined that the city’s approval of the project was inconsistent with the coordination requirement in the general plan and thus violated the Planning and Zoning Law. (*Id.* at p. 642.)

## II. GENERAL PLAN CONSISTENCY

### A. Basic Principles Applicable to General Plans

Under the Planning and Zoning Law, cities are required to adopt a comprehensive, long-term general plan for their physical development. (Gov. Code, § 65300.) A general plan must contain (1) a statement of development polices; (2) text setting forth objectives, principles, standards and plan proposals; and (3) elements addressing land use, circulation, conservation, housing, noise, safety and open space. (Gov. Code, § 65302.)

General plans have been characterized as the “constitution” or “charter” for future development situated at the top of the hierarchy of local government law regulating law use. (*DeVita v. County of Napa* (1995) 9 Cal.4th 763, 772-773; *Pfeiffer v. City of Sunnyvale City Council* (2011) 200 Cal.App.4th 1552, 1562.) In this role, a general plan sets forth a city’s fundamental policy decisions about future development. (*Pfeiffer v. City of Sunnyvale City Council, supra*, 200 Cal.App.4th at p. 1562.)

The propriety of nearly every local decision affecting land use and development depends on consistency with the applicable general plan and its elements. (*Citizens of*

*Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 570.) The consistency doctrine is the linchpin of California’s land use and development laws because it gives the force of law to the plans for growth set out in the general plan. (*California Native Plant Society v. City of Rancho Cordova, supra*, 172 Cal.App.4th at p. 636.)

B. Contents of City’s General Plan

The General Plan sets forth a number of land use categories, including agricultural, various densities of residential, office, commercial, industrial, public facilities, and mixed use. The first column in Table 2-2 of the General Plan lists each of these land use categories. The second and third columns of the table provide the “Corresponding Existing Zoning Categories” and the “Proposed Zone Categories” for each land use.

This appeal concerns the land use category designated “Mixed Use.” Table 2-2 of the General Plan contains 13 entries of corresponding *existing* zoning categories, including C-2 and R-2,<sup>4</sup> for this land use category of “Mixed Use.” The related entry for the *proposed* zone category is “Mixed-Use Overlay,” which has a footnote that states: “The City may choose to create a Mixed-Use Overlay Zone, or a Planned Community/Planned Commercial Zone to implement the Mixed-Use Designation.”<sup>5</sup>

Further information about the mixed use category is provided in the text of the General Plan:

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<sup>4</sup> The designation C-2 refers to Community Commercial and the designation R-2 refers to Low Density Multiple Family Residential.

<sup>5</sup> Generally, the term “overlay zone” refers to a mapped overlay district superimposed on one or more established zoning districts and is used to impose a supplementary set of restrictions on the land within the overlay district. (1 Rathkopf’s *The Law of Zoning and Planning* (4th ed. 2012) § 1:31.) Overlay zoning districts are used for a variety of purposes. For example, there may be overlay historic districts, horse districts, liquor districts, noise districts, or floodplain districts. (1 Rathkopf’s *The Law of Zoning and Planning, supra*, § 1:14.)

“The mixed use category provides for the development ... of a complementary and creative mix of retail, professional office, industrial, business park, medical facilities and higher density residential uses that are located on the same parcel or within the same project area. The intent of the mixed use category is to provide the opportunity for combinations of land uses which achieve superior design or functional standards not typical of individual land uses. Mixed use projects may either be free-standing within a project area, or combined in one single building. All land uses proposed within the mixed use category will be subject to special review procedures which require a site plan or development plan. *The mixed use designation will be implemented by a Mixed Use Overlay Zone or similar mechanism*, which may apply density bonus provisions for inclusion of low income housing in mixed-use projects.” (Italics added.)<sup>6</sup>

The General Plan identifies 34 mixed use areas throughout City and assigns a number to each of them. Table 2-3 of the General Plan, titled “MIXED USE DESIGN GUIDELINES,” sets forth each area’s primary use, secondary uses, special uses, maximum building height in stories, floor area ratios, residential densities, design features and specific comments.

The project site is part of Mixed Use Area #2, which is an 80-acre rectangle with Herndon Avenue as its southern boundary, Willow Avenue as its western boundary, and Peach Avenue as its eastern boundary. Its northern boundary is not a street, but consists of the property lines of existing residential lots on the south side of Birch Avenue. At the time the 2010 Site Plan was approved, the western side of Mixed Use Area #2 contained a shopping center and the rest of Mixed Use Area #2 was vacant.

The project site contains over 11 acres and is located in the southeastern corner of Mixed Use Areas #2. The project site is zoned C-2. The vacant land between the existing shopping center and the project site is also zoned C-2. The remainder of Mixed Use Area #2 consists of approximately 15 acres north of the project site, and is zoned R-2.

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<sup>6</sup> Plaintiffs contend the project is not consistent with the italicized language or the Mixed-Use Overlay description noted in footnote 5.

The primary use listed for Mixed Use Area #2 in Table 2-3 of the General Plan is “Community Commercial,” the secondary use entry is “25% Residential,” and the residential density entry is “Medium-High.” A staff report to City’s planning commission interpreted these entries by stating: “Mixed Use Area #2 allows for up to 100% community commercial use with the opportunity for up to 25% medium-high residential use. Based upon the current zoning, 82% is zoned C-2 Community Commercial and 18% is zoned R-2 Multiple-Family Residential.”

C. Plaintiffs’ Theory of General Plan Inconsistency

Plaintiffs’ argument regarding the project’s inconsistency with the General Plan is based on the provision of the General Plan that states: “The mixed use designation will be implemented by a Mixed Use Overlay Zone or similar mechanism ....” Plaintiffs contend that the project is not consistent with this requirement because City admits that it did not adopt a Mixed Use Overlay Zone that includes Mixed Use Area #2 and, further, City failed to adopt a “similar mechanism.”

Plaintiffs present two separate arguments regarding the meaning and application of the “similar mechanism” requirement.<sup>7</sup> Initially, plaintiffs contend that the term “similar mechanism” is defined by referring to the footnote in Table 2-2 of the General Plan that states: “The City may choose to create a Mixed-Use Overlay Zone, or a Planned Community/Planned Commercial Zone to implement the Mixed-Use Designation.” Plaintiffs contend this footnote establishes that “similar mechanism” means a Planned Community/Planned Commercial Zone because the phrase “may choose” gave City the discretion to adopt *either* a mixed use overlay zone *or* a Planned Community/Planned Commercial Zone, but did not give it the discretion to choose another option.

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<sup>7</sup> For purpose of this opinion, we will assume that the phrase “will be implemented” is mandatory and means the mixed use designation in the General Plan *shall* “be implemented by a ... similar mechanism.”

Alternatively, plaintiffs contend that even if the footnote is interpreted to allow City to choose other methods, City's piecemeal zoning of Mixed Use Area #2 does not qualify as a mechanism similar to a mixed use overlay zone.

D. Interpretation of General Plan Provisions

In this case, City's consistency determination ultimately depends upon its interpretation and application of the provisions of the General Plan, not a balancing of policies and objectives. Like the Third Appellate District in *California Native Plant Society v. City of Rancho Cordova*, *supra*, 172 Cal.App.4th 603, we will uphold City's consistency determination if it is based on a reasonable interpretation of the General Plan. (*Id.* at pp. 639-640.) In contrast, if City's interpretation was unreasonable, its consistency determination will be overturned. (*Id.* at p. 642.)

As interpreted by City, the footnote stating that it "may choose to create a Mixed-Use Overlay Zone, or a Planned Community/Planned Commercial Zone to implement the Mixed-Use Designation" did not identify the exclusive zoning designations allowed for Mixed Use Area #2. City regarded this language as identifying two possible methods for implementing a mixed use designation, not as requiring City to adopt one or the other.

The parties' dispute concerning the meaning of the footnote includes a dispute over the proper interpretation of the phrase "may choose." Government Code section 14 defines "'may'" as "permissive." In addition, the California Supreme Court has recognized that a legislative body's use of "may" ordinarily, but not conclusively, is construed as permissive. (*Tarrant Bell Property, LLC v. Superior Court* (2011) 51 Cal.4th 538, 542.) Thus, based solely on existing case law and statutory definitions, City's interpretation of "may choose" as permissive (i.e., nonexclusive) appears to be reasonable. These definitions of "may" show that it is possible to interpret "may" as either permissive or mandatory, with the permissive definition being more common.

Our inquiry into reasonableness, however, does not end with these definitions. (See *California Native Plant Society v. City of Rancho Cordova*, *supra*, 172 Cal.App.4th at p. 641.) We must proceed to analyze the language in context. (*Ibid.*) This inquiry includes considering the probability that the drafter of the General Plan would have used other words to express the positions being advocated by the parties. (*Ibid.*)

An important part of the context for the mixed use land designation and the related requirement for a mixed use overlay zone or similar mechanism flows from the fact that the requirement applies to all of the 34 mixed use areas designated in the General Plan and listed in Table 2-3. Thus, the term “similar mechanism” must be interpreted in a way that takes into consideration all 34 mixed use areas and allows City to achieve the specific characteristics the General Plan lists for each of those areas. Those specific characteristics are set forth in Table 2-3 and concern the primary use, second use, special use, height restrictions, floor area ratios, and residential density. The identification of specific characteristics for each of the mixed use areas means that the term “similar mechanism” must be given sufficient breadth and flexibility to permit these characteristics to be achieved in the designated areas. This need for flexibility undermines plaintiffs’ position that there is only one “similar mechanism.”

Another aspect of our examination of the context of the General Plan’s language concerns the drafter’s intent and the choice of language to express that intent. Plaintiffs contend that the General Plan’s statement that the “mixed use designation will be implemented by a Mixed Use Overlay Zone or similar mechanism” was written with the intent that there would be only one “similar mechanism”—namely, a Planned Community/Planned Commercial Zone. We recognize that a draftsman may express a particular intent in many ways, but our analysis of the language chosen leads us to conclude that it is an unlikely way for a draftsman to express the intent attributed to it by plaintiffs. First, as discussed in the prior paragraph, the use of the term “similar mechanism” suggests flexibility and a variety of mechanisms rather than a single

mechanism. Second, the “may choose” language in the footnote in Table 2-2, which ordinarily is construed as permissive, also suggests the General Plan gives City flexibility in choosing a particular mechanism. Moreover, a draftsman wanting to limit City to the two mechanisms identified by plaintiffs could have done so more plainly and easily by removing “similar mechanism” from the text, replacing it with “Planned Community/Planned Commercial Zone,” and deleting the footnote in Table 2-2. The fact that the draftsman chose more flexible language over this concise approach supports the inference that the broader interpretation of “similar mechanism” was intended.

Therefore, based on the General Plan as a whole and the other ways the disputed language could have been drafted, we conclude City reasonably interpreted the General Plan to allow mixed use areas to be implemented by mechanisms other than a Planned Community/Planned Commercial Zone.

The second question of interpretation concerns whether City complied with the General Plan and adopted a “similar mechanism” to implement the mixed use designation for Mixed Use Area #2. Plaintiffs contend that City’s piecemeal zoning of the area does not constitute a “similar mechanism.”

The term “similar mechanism” is not defined in the General Plan, the Planning and Zoning Law, or the case law that discusses zoning. (Cf. *Russ Bldg. Partnership v. City and County of San Francisco* (1988) 44 Cal.3d 839, 848 [words ““downtown assessment district, or similar fair and appropriate mechanism”” in building permit encompassed transit impact development fee ordinance].) Consequently, we turn to the dictionary definitions of the two words.

Webster’s Third New International Dictionary defines “similar” as “having characteristics in common : very much alike” and “alike in substance or essentials ....” (Webster’s 3d New Inter. Dict. (1993) at p. 2120, 3d col.) It defines “mechanism” as “a piece of machinery : a structure of working parts functioning together to produce an effect” and “a process or technique for achieving a result ....” (Webster’s 3d New Inter.

Dict. (1993) at p. 1401, 1st col.) When portions of these definitions are combined, the term “similar mechanism” can be reasonably interpreted to mean a technique for achieving a result that is alike in substance or essential to the technique to which it is compared. When this interpretation is applied to the General Plan, the term “similar mechanism” means a technique for achieving mixed use of the designated land that is alike in substance or essentials to a mixed use overlay zone.

This interpretation of “similar mechanism” raises the further question of what are the essentials of a mixed use overlay zone, besides the fact that it overlays other zoning districts. (See fn. 5, *ante*.) One reasonable answer to this question is that, for purposes of the General Plan, the essentials of a mixed use overlay zone are (1) the allowance of mixed uses within a defined area and (2) the achievement of the specific characteristics listed in Table 2-3 of the General Plan. In other words, the mechanism will have served its essential functions if, in general, it allows the implementation of mixed uses and, more specifically, allows the implementation of the specific standards set forth for each mixed use area in Table 2-3 of the General Plan.

In this case, the technique used by City to achieve a mixture of land uses in the designated area included the 2001 rezoning of parts of Mixed Use Area #2 (including the project site) as Community Commercial (C-2) and leaving the land to the north of the project site zoned R-2. This technique allowed for a variety of uses within the zone as well as the achievement of the specific standards that Table 2-3 contains for Mixed Use Area #2. As a result, we conclude that City reasonably interpreted the General Plan when it concluded that the combination of C-2 and R-2 zoning approved in 2001 for Mixed Use Area #2 was a “similar mechanism” and thus consistent with the General Plan.

Plaintiffs argue that discretionary review was an essential aspect necessary to qualify as a “similar mechanism.” While this may be one reasonable way to interpret the requirement, it is not the only reasonable interpretation available. Therefore, it is not an interpretation that this court can require City to adopt.

### III. SPECIFIC PLAN CONSISTENCY

Plaintiffs also claim the project was inconsistent with express requirements of the Herndon Shepherd Specific Plan.

#### A. Contents of the Specific Plan

The Herndon Shepherd Specific Plan discusses both neighborhood and community retail sites. Section 4.2.2.1 identifies four neighborhood retail sites, each approximately eight to ten acres in size and located at a major intersection for ease of access. More important to this appeal, section 4.2.2.2 identifies one community retail site<sup>8</sup> and describes the site as follows:

“A planned mixed use area is planned at Willow and Herndon Avenues to serve residents of the plan area and [travelers] along Herndon or Willow Avenue. It will contain up to 60 acres of Community Commercial uses. It will act as a gateway to the plan area and should be designed to perform this role. Anchored by large stores, this center will contain a wide variety of stores. Located at the intersection of commuter routes, will be primarily autooriented. Stores will have larger building footprints, may occupy a total of 500,000 or 600,000 square feet within a .25 floor area ratio and may be taller. A variety of goods and services such as sporting goods, dry cleaning, discount goods, records and tapes or restaurants will be available at the community retail center. It is anticipated that this commercial development will be part of a planned mixed use development integrating a commercial center and possibly office uses with multiple family housing. As such, it would be a fairly intensive, active site.”

Figure 4 in the Herndon Shepherd Specific Plan is a map of the various land uses planned. In this figure, the community retail site (i.e., Mixed Use Area #2) is identified as “Planned Mixed Use.”

The Herndon Shepherd Specific Plan discusses zoning at page 76 and states: “In most cases, the text of the Plan specifies which zone districts are appropriate in each land use designation. Since this is an important issue, the following table is provided to

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<sup>8</sup> When the General Plan was adopted five years later, it designated this community retail site as Mixed Use Area #2.

remove any uncertainty regarding the appropriate zoning for each land use designation.” (Italics added.) The table, labeled “Zoning Consistency,” identifies the implementing zone districts for “mixed use area” as “P-C-C, C-P, M-P, R-2, R-2-A.”

B. Contentions of the Parties

Plaintiffs contend that the C-2 (Community Commercial) zoning of the project site expressly conflicts with the “Planned Mixed Use” designation in the Herndon Shepherd Specific Plan as well as the entries in the zoning consistency table. That table does not list C-2 zoning among the types of zoning appropriate for land designated mixed use area.

City contends the project approval is consistent with the provisions of the Herndon Shepherd Specific Plan because the description of the community retail site, which contains the proposed project, states that the “planned mixed use area ... will contain up to 60 acres of Community Commercial uses.” City contends this reference to “60 acres of Community Commercial uses” is consistent with the C-2 (Community Commercial) zoning of the project site. In addition, City contends that the zoning designations listed in the zoning consistency table are not the exclusive zoning designations allowed for the mixed use area.

C. Analysis

The parties’ contentions present the question whether City adopted an unreasonable interpretation of the Herndon Shepherd Specific Plan when it determined that the zoning designations listed in the zoning consistency table were not exclusive and, therefore, the project approval was not inconsistent with the table.

This question of interpretation centers on the paragraph that leads into the zoning consistency table. The first sentence of that paragraph provides: “In most cases, the text of the Plan specifies which zone districts are appropriate in each land use designation.” Here, the text in section 4.2.2.2 of the Herndon Shepherd Specific Plan designates the

project site as a “planned mixed use area,” but it does not specify all of the zone districts that are appropriate for the area. Instead, it states that the planned mixed use area “will contain up to 60 acres of Community Commercial uses.” We conclude that the reference to “Community Commercial uses” is reasonably interpreted to mean that a Community Commercial zone district would be appropriate for some of the area. Thus, it is reasonable to interpret section 4.2.2.2 of the Herndon Shepherd Specific Plan as specifying one zone district that is appropriate for at least some of the planned mixed use area. When this interpretation is compared to the first sentence in the paragraph that leads into the zoning consistency table, it produces two conclusions. First, “the text of the Plan specifies” that the Community Commercial zone district is appropriate for some of the planned mixed use area. Second, the text of the plan does not specify which zone districts are appropriate for the balance of the planned mixed use area.

This failure of the plan’s text to specify other zone districts that are appropriate for the planned mixed use area creates uncertainty. This uncertainty is addressed by the second sentence of the paragraph that leads into the zoning consistency table: “Since this is an important issue, the following table is provided to remove any uncertainty regarding the appropriate zoning for each land use designation.” Although this sentence is subject to different interpretations regarding the effect of the zone districts listed in the table, one reasonable interpretation is that the entries in the table are intended to “remove any uncertainty” about the zoning that exists in the text of the plan and, where the text is not uncertain, the entries in the zoning consistency table do not control.

In this case, the text of the Herndon Shepherd Specific Plan that discusses the planned mixed use area containing the project is reasonably interpreted to mean that a Community Commercial zone district is appropriate for some of the area and the zoning districts for the remainder of the area is not specified and, thus, is uncertain. This uncertainty is addressed by the zoning consistency table, which indicates that zone

districts “P-C-C, C-P, M-P, R-2, [and] R-2-A” would be appropriate in the remainder of the “mixed use area.”

Because the foregoing interpretation of the Herndon Shepherd Specific Plan is reasonable, we conclude that City did not act arbitrarily and capriciously when it determined the project approval was consistent with Herndon Shepherd Specific Plan. In short, the text of the plan authorized the C-2 zone district and the zoning consistency table authorized the R-2 zoning.

#### IV. *CONSISTENCY WITH APPLICABLE ZONING*

Plaintiffs acknowledge that their argument that the project approval conflicts with applicable zoning is based on the position that the Herndon Shepherd Specific Plan requires any development of the project site to be implemented through PCC zoning. Our rejection of the position that the Herndon Shepherd Specific Plan requires the project site to be zoned PCC necessarily disposes of plaintiffs’ argument regarding the project’s inconsistency with PCC zoning. Therefore, we have no need to discuss the argument further.

#### V. *OTHER ISSUES*

Our analysis of the substantive challenges to City’s approval of the project resulted in the conclusion that City did not violate the Planning and Zoning Law when it approved the project. Accordingly, we do not need to address the issues raised by the alternate grounds presented by City for affirming the judgment. Therefore, we will not address whether plaintiffs had standing to pursue a writ of mandate under the general rule requiring a beneficial interest (Code Civ. Proc., § 1086) or the “public right/public duty” exception to the general rule.<sup>9</sup> (*Tobe v. City of Santa Ana* (1995) 9 Cal.4th 1069, 1116-

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<sup>9</sup> Standing based on the exception is known as “public interest standing” and a lawsuit invoking this type of standing is referred to as a “citizen suit.” (*Consolidated Irrigation Dist. v. City of Selma* (2012) 204 Cal.App.4th 187, 202.)

1117.) Also, we will not consider whether plaintiffs' claims under the Planning and Zoning Law are time-barred. (See Gov. Code, § 65009, subd. (c) [action must be commenced within 90 days of legislative body's decision].)

**DISPOSITION**

The judgment is affirmed. Respondents shall recover their costs on appeal.

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Franson, J.

WE CONCUR:

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Cornell, Acting P.J.

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Kane, J.