



City of Santa Barbara Planning Division

DRAFT PLANNING COMMISSION MINUTES

July 21, 2005

CALL TO ORDER:

Vice-Chair John Jostes called the meeting to order at 9:04 a.m.

ROLL CALL:

Present:

Vice-Chair John Jostes

Commissioners, Charmaine Jacobs, Stella Larson, Bill Mahan, George C. Myers, and Harwood A. White, Jr.

Chair Maguire (*arrived 10:29 a.m.*)

Absent:

None.

STAFF PRESENT:

Jan Hubbell, Senior Planner

Victoria Greene, Project Planner

Kathleen Kennedy, Assistant Planner

Renee Brooke, Associate Planner

Barbara Shelton, Project Planner

Rob Dayton, Supervising Transportation Planner

James Austin, Fire Inspector

Jill Zachary, Creeks Restoration/Clean Water Manager

N. Scott Vincent, Assistant City Attorney

Liz N. Ruiz, Planning Commission Secretary

II. PRELIMINARY MATTERS:

- A. Requests for continuances, withdrawals, postponements, or addition of ex-agenda items.

Senior Planner Jan Hubbell announced there were none.

- B. Announcements and appeals.

Ms. Hubbell announced that the applicant for 2530 Mesa School Lane has filed an appeal.

C. Comments from members of the public pertaining to items not on this agenda.

None.

III. CONTINUED ITEM FROM JUNE 9, 2005:

ACTUAL TIME: 9:05 A.M.

APPLICATION OF GARCIA ARCHITECTS, INC., AGENT FOR SAN PASCUAL COTTAGES, INC., PROPERTY OWNERS, 1822 SAN PASCUAL STREET, APN 043-163-013, R-3 LIMITED MULTIPLE-FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL, 12 UNITS PER ACRE (MST2004-00546)

The proposed project involves demolition of an existing single family residence, an unpermitted unit, garage and shed, and the construction of seven new residential condominiums with twelve covered and two uncovered parking spaces. Units would range in size from 983 to 1,930 square feet. Access would be provided by a driveway off of San Pascual Street.

The discretionary application required for this project is approval of a Tentative Subdivision Map pursuant to SBMC §27.07.

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15332, which provides for in-fill development projects in urban areas where it is determined that there will be no significant effects.

Commissioner White arrived at 9:08 a.m.

Victoria Greene, Project Planner, gave a brief presentation of the project.

Gil Garcia, Applicant, gave a brief presentation of his project.

The public hearing was opened at 9:19 a.m., and the following people spoke in opposition to the project:

Emalee Vinson
Rod Edwards
Carolyn Rice
Kay Condron
Tim LaDouce
Susan Edelman
James Trinidad
Charlotte H. Allen
Tony Fischer, representative for Carolyn Rice
Jenaro Valdez
Lynn Kosmecki

With no one else wishing to speak the public hearing was closed at 9:51 a.m.

Commissioners' comments and questions:

1. Asked staff to clarify definition of variable density.
2. Said that dimensions do not seem to scale and asked applicant to explain proportions and clarification. Expressed concern over scale accuracy.
3. Asked applicant to characterize nature of his interaction with the neighbors.
4. Asked applicant to clarify the ultimate height of the property line fence on the neighbors' side.
5. Thanked neighbors for coming out this morning and for dedication to neighborhood. Noted improvements have been made from last proposal, but feels that Planning Commission requests have been responded to by the letter, but not in spirit. Neighborhood has no parks, is an alternate cross town traffic route, has lots of traffic and density, and design results in too many people, not enough parking and no place for kids to play. Project has one unit too many. Asked applicant if one unit could be eliminated. Also, more quality discussion needs to take place with neighbors regarding drainage and lighting, and a pre-construction meeting should be held with the neighbors.
6. Asked Wayne Fitch, engineer, to address the drainage proposed.
7. Asked Assistant City Attorney Vincent if the driveway design inappropriately encumbers the neighboring piece of property.
8. Stated inability to make the subdivision map findings for the proposed density on this lot. There can be a project there, but has misgivings at introducing this proposal as it stands to this neighborhood. Would like to see another proposal, less dense, with fewer drainage problems, and fence and landscape solutions. Does not want to impose a change that will create more problems in the neighborhood.
9. Feels this is a zoning vs. neighborhood compatibility conundrum. Would like to see one unit less and room for a swing set to make this work
10. Feels the applicant has done so many things that he was asked to do, but it is not quite there yet. The nonsupport of the neighborhood is very important factor that must be heard.
11. Expressed concern that no conversation has taken place between applicant and neighbors as requested; feels dialogue and expression need to take place.

Ms. Hubbell spoke about variable density and the General Plan policies.

Wayne Fitch, Penfield & Smith Engineers, spoke in regards to drainage.

Mr. Vincent stated he leaves it to the engineer to determine if the grading and drainage design will succeed and to convince the Commission. Secondly, if applicant needs to change the grade for a successful project, then they will need to have legal entitlement to use property as proposed. Applicant has not presented evidence that this has been done. Assuming the Commission approves the project, applicant will need to get this permission from neighbor and that is an issue between the two property owners.

Ms. Hubbell explained the Commission has two options: denial as proposed or continuance for redesign. Amount of staff work is same. Denial would give applicant opportunity to go directly to City Council.

Mr. Garcia asked the Planning Commission for direction. Stated that four units would not work financially, but removal of one unit might be able to be absorbed by other units. Any project designed for that property would require raising the driveway for forward drainage. Will talk to neighbors; and would take more time to work with the neighbors this time around. He would prefer a continuance.

MOTION: Mahan/White To continue indefinitely, with direction to redesign project to remove at least one two bedroom unit; resolve drainage problem with adjacent neighbor, and work closely with the neighborhood.

This motion carried by the following vote:

Ayes: 6 Noes: 0 Abstain: 0 Absent: 1 (Maguire)

Vice Chair Jostes announced the ten calendar day appeal period.

Vice-Chair Jostes turned the meeting over to Chair Maguire at 10:29 a.m..

IV. APPEAL OF INCOMPLETE APPLICATION DETERMINATION:

ACTUAL TIME: 10:29 A.M.

APPEAL OF ROB ALEXANDER, AGENT FOR PROPERTY OWNERS, PACIFICOR INC., OF A DETERMINATION OF INCOMPLETENESS FOR 1575 N. ONTARE ROAD, APN 055-030-019, A-1: ONE-FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: RESIDENTIAL, ONE UNIT/ACRE AND MAJOR HILLSIDE (MST2004-00150)

The project site, located at 1575 N. Ontare Road, is split between City and County jurisdictions. The City portion of the project consists of grading (800 c.y. fill) for an equestrian arena and fencing. The equestrian arena, by straddling the City/County line, would be partially in the City and partially in the County. The County portion of the project also includes the construction of three horse barns. The City portion of the project would require Neighborhood Preservation Ordinance (NPO) approval. On May 19, 2005, Staff made a Determination of Incompleteness of the project application. This is an appeal of that determination.

Kathleen Kennedy, Assistant Planner, gave a brief presentation of the project.

Rob Alexander, Agent for Property Owners, and Richard Monk, attorney for the owners, addressed the Planning Commission.

With no one wishing to speak, the public hearing was opened and closed at 10:44 a.m.

Commissioners' comments and questions:

1. Asked Assistant City Attorney for comments on what Mr. Monk addressed.
2. Asked fire staff about the incompleteness determination and if there were any conversations with County Fire.
3. Asked applicant if there is a condition imposed by County Fire to build wider road. Asked applicant about basis for \$600K cost of improving the road.
4. Asked Staff about the concept review previously done for another Ontare property and if Staff is being consistent with requests. Asked Staff if the application is eventually deemed complete, will it come back to the Planning Commission.
5. Asked if there was any sphere of influence issue that pertains to this project.
6. Asked the applicant if this is a private riding arena solely for the owner or would there be a likelihood that other people would be boarding horses and using the arena.
7. Asked if the County Fire Department would have the ability to condition a project that had road access from the City, through the City, to a County unincorporated property.
8. Stated that the City has a right to ask for complete drawings and that the scope of work may present a health and safety issue, regardless of whether in County or City.
9. County Fire Department should have made the road a requirement in the county as well. Appreciates applicant's situation, for what should have been involved collaboratively amongst entire neighborhood. Although the applicant is may have a disproportionate expense, does not see a way remove the requirement at this point.
10. Stated that fire protection is a cooperative venture between the City and County and is concerned with the applicant playing the City against the County. Concur with fellow Commissioners and cannot support appeal.
11. Stated that this is an application that does trigger this road. Agrees that access to a facility is an integral part of the facility and that the City is well within its jurisdiction to require access.

Ms. Hubbell stated that the project would return to the Planning Commission for NPO findings for the grading.

Mr. Vincent stated that there is a disagreement between City Staff and the applicant regarding application of the fire access road requirement to this project. All agree on the definition of 'facility' and 'jurisdiction', but disagree on interpretation of those terms and application to this project. The City Fire Department has requested the applicant to provide drawings with a standard fire access road. If the appeal is denied, the DART letter will stand. Then the applicant is left with three options; show drawings with fire access road; withdraw application; have a court decide over proper interpretation of term 'facility' and how should it apply to this application. Stated that this action is not appealable to the City Council. The action today is strictly an appeal of an incomplete application determination, not an action regarding an application for a grading permit.

Jim Austin, Fire Inspector, stated they have consulted with the County Fire Department and that their standards are same as the City. There is a letter in the Planning Commission packet that the County Fire Department supports City's requirement for a 20 foot road. Stated that this area is only

accessible through a City road. States that this requirement is consistent with the other projects in the Ontare area.

Mr. Alexander clarified to the Planning Commission that he has met the County's 24-foot road requirement; however, he is appealing the City's requirement for the 20-foot wide segment. The \$600,000 figure is based on the cost analysis made by another owner of a neighboring development project that had been given same request to widen the same stretch of road which involves relocating underground utilities, massive retaining walls, tremendous expenditures of equipment and time.

Mr. Monk stated that the County is not requiring the same road. The County approved the road requirements that were submitted by the applicant and has signed off on a condition letter. The letter from the County Fire Department to the City Fire Department agrees that is what the fire code requires in terms of road width, but presupposes that there is jurisdiction. Jurisdiction issues were not analyzed and applicant still believes that the City does not have jurisdiction to require that type of road to serve a piece of dirt surrounded by a fence. If they were to withdraw their application there is no question that the City has no jurisdiction to require anything with this project; however, the area is needed to make a regulation arena for jumping horses.

Ms. Hubbell stated that the 24 foot road ends at the City/County line; however, even though permit is only for grading, the City must look at the larger project and access beyond, hence the City's request for a 20 foot wide segment. Also, the plans are needed in order to do environmental review.

Ms. Hubbell believes the County project is within the City sphere of influence. The City does review projects that are in the sphere or adjacent to the sphere, usually at the request of County Staff or the applicant, to get input to provide the County Planning Commission in making decisions that affect the City. This is usually for much more substantial projects such as the San Marcos Foothills Project .

Mr. Vincent responded, stating that Staff's decision on the requirement for the fire access road is not based on the sphere of influence, but on jurisdiction. The requirement for fire access is not dependent upon whether this is a private or commercial use of this facility. The arena crosses jurisdictions, as does the fire access road. The County respects the jurisdictional line and the City intends to respect the jurisdictional line. The City is not requiring improvement of the fire access road within the County, but merely asking that the portion of the fire access road that crosses City jurisdiction be brought up to current City standards. Both City and County are respecting that jurisdictional line; this comes down to whether or not this grading permit application triggers the City's requirements regarding the fire access road that runs across City jurisdiction.

MOTION: Jostes/Jacobs

Assigned Resolution No. 054-05

Uphold the incompleteness determination and deny the appeal.

This motion carried by the following vote:

Ayes: 7 Noes: 0 Abstain: 0 Absent: 0

This decision is not appealable to the City Council.

To avoid the appearance of a conflict of interest Vice-Chair Jostes stepped down at 11:11 a.m.

Recessed at 11:11 a.m., and reconvened at 11:25 a.m.

V. NEW ITEM:

ACTUAL TIME: 11:25 A.M.

APPLICATION OF PEAK LAS POSITAS PARTNERS, 900-1100 BLOCK OF LAS POSITAS ROAD (VERONICA MEADOWS SPECIFIC PLAN), APNs 047-010-016, 047-010-053 (A PORTION), 047-010-009, 047-010-011, AND 47-061-026; CURRENT COUNTY ZONING: 8-R-1 SINGLE-FAMILY RESIDENTIAL (8,000 SQ. FT. MIN. LOT SIZE), AND RR-20 RURAL RESIDENTIAL (20-ACRE MIN. LOT SIZE); CURRENT COUNTY COMPREHENSIVE PLAN DESIGNATION: RESIDENTIAL, 4.6 UNITS PER ACRE AND RESIDENTIAL RANCHETTE, ONE UNIT PER 20 ACRES (MST99-00608).

The proposed project involves the annexation of approximately 50 acres to the City of Santa Barbara, including a 5.89-acre City-owned parcel located between the project site and Las Positas Road. Upon annexation, the subject lots would have various General Plan Land Use and Zoning Designations, described in further detail below.

Approximately 35.7 acres would be dedicated open space and 14.8 acres would be developed for residential uses, a public road, and public passive recreation and open space. Twenty four residential lots would be created, ranging in size from approximately 5,520 to 14,140 square feet. The project would include seven house plans, all of which would be two-stories in height, and range in size from 1,800 to 4,500 square feet of living area. Site access to all but two lots would be provided via a proposed concrete bridge over Arroyo Burro Creek that would intersect with Las Positas Road. A public loop road on the west side of the creek would serve 17 of the homes; a private drive would provide access to five home sites. The remaining two homes would be accessed from the end of Alan Road. A public pedestrian path is proposed along the western edge of the creek to provide access from the end of Alan Road to Las Positas Road.

The project includes a creek/riparian corridor restoration plan on both banks of Arroyo Burro Creek, and would provide a 100-foot buffer between the proposed residences and the top of bank of Arroyo Burro Creek. A portion of the proposed public road and private driveways would be located within the 100-foot creek setback.

Cast-in-ground concrete caissons are proposed on-site to stabilize the hillside to the west. Geologic stabilization of the hill would result in approximately 61,500 cubic yards (cy) of cut and 61,500 cy of fill. Total estimated grading for the project improvements (building pads, roads, etc.) would be about 13,459 cy of cut and 26,390 cy of fill.

The Discretionary Applications Required for this Project Are:

1. A Coastal Development Permit for the subdivision and development (residences, roads, creek restoration, landscaping, grading, etc.) of the portion of the project

- within the Appealable and Non-Appealable jurisdictions of the Coastal Zone (SBMC §28.45.009);
2. A Lot Line Adjustment to remove a 4.49-acre portion from APN 047-010-053 and attach it to APN 047-010-016 (Gov. Code §66412);
 3. A Waiver of the requirement that newly created lots front upon a public street, to allow proposed Lots 3, 4, 5, 6, and 7 to be served by a private driveway (SBMC §22.60.300);
 4. Neighborhood Preservation Ordinance Compliance because the project requires an EIR and to allow grading in excess of 500 cubic yards outside of a main building footprint within the Hillside Design District (SBMC §22.68.070); and
 5. A Tentative Subdivision Map to divide one parcel into 28 lots, including a finding of consistency with proposed Specific Plan #9. Twenty-four lots would be developed with single-family homes, and four would be common open space lots (SBMC Chapter 27.07).

Actions Requiring a Recommendation to the City Council by the Planning Commission:

6. Annexation of the subject parcels to the City of Santa Barbara;
7. Adoption of Specific Plan 9 – Veronica Meadows;
8. General Plan Amendment, upon annexation, to add the subject parcels to the City's General Plan Map. APNs 047-010-016, 047-061-026, and the 4.49-acre portion of 047-010-053 would have a General Plan Land Use Designation of Residential, Two Dwelling Units per Acre; APN 047-010-011 would be designated Major Hillside, Open Space, Buffer/Stream, and Pedestrian/Equestrian Trail; APN 047-010-009 would be designated Open Space, Buffer/Stream, and Pedestrian/Equestrian Trail;
9. Zoning Map Amendment, upon annexation, to designate APNs 047-010-011, 047-010-016, 047-061-026 and the 4.49 portion of 047-010-053 as SP-9, Veronica Meadows Specific Plan, and APN 047-010-009 as P-R, Park and Recreation. Any portion of the involved properties located within the Coastal Zone would also be designated as SD-3, Coastal Overlay Zone;
10. Hillside Design District Map Amendment, upon annexation, to add the subject parcels to the Hillside Design District (SBMC §22.68.110); and
11. Local Coastal Plan Amendment to add the portions of APNs 047-010-009 and 047-010-016 that are located within the Coastal Zone boundary to the City's Local Coastal Plan.

Final EIR Certification. A Final Environmental Impact Report (EIR, ENV #99-00608) has been prepared and, prior to an action on the project, the Planning Commission will consider certification of the EIR, and must make findings pursuant to the California Environmental Quality Act Guidelines Section 15091.

Renee Brooke, AICP, Associate Planner, gave a presentation of the project.

Mark Lee, Peak Las Positas Partners, addressed the Planning Commission.

Jeff Gorrell, Lenvik and Minor Architects, went over the background and vision of the proposed project.

Mitchell Swanson, Swanson Hydrology and Geomorphology, spoke about Arroyo Burro Creek and what the proposed creek restoration will accomplish.

Commissioners' questions:

1. Asked Staff if bicycle and pedestrian trail path signs will be on Las Positas Road and Cliff Drive directing people to the trails
2. Stated a prior request for cross-sections at various points along Arroyo Burro that show how the top of bank is calculated. Asked if applicant had submitted them.
3. Stated that he did not see a reference to Charter Section 1507, which has been included in other EIRs and asked if it was considered.
4. Recalled how monies for traffic mitigation were previously discussed to be used for a roundabout at Las Positas/Cliff Drive; asked Staff how close we were to getting the roundabout.
5. Asked Staff how creek and hillside restoration would get done as a part of the project and not have them left out for insufficient monies.
6. Asked if hillside grading is part of a mitigation for a geological impact.
7. Asked where direction for 100-foot creek setbacks came from. Asked why this area is considered to be rural.
8. There seems to be a discrepancy in definition of 100 foot setback and would like to know if there has been any redesign of the creek presented to the City that could change the actual setback.
9. Expressed concerns over making decisions about reducing size of homes on the property without having calculated top of creek bank information.
10. Asked geomorphologist what happens upstream when looking at a fully restored creek in a specific area and an unrestored creek right above it. Will it worsen the upstream conditions?
11. Asked if anything has been done at this time to protect the threatened oak tree.
12. Asked staff if city would consider doing any planning for removal of arundo upstream from the project; concerned with aggressive proliferation.
13. Concerned with loss of sidewalk if the bridge is narrowed by four feet since bridge connects the park to the beach. Would like to understand what is gained biologically by reducing the bridge width by four feet. Asked about conditional requirement for a signalized intersection at Jerry Harwin Parkway. Stated that, if relinquishment of State 225 is completed prior to issuance of public works permits, then under those conditions, the applicant would provide signalized intersection. Concerned with the time delay between those two events in awaiting State 225 relinquishment and asked if that condition of approval could be triggered by construction of the "last house". Also asked if, like the roundabout scenario, could there be a similar agreement made that would provide for design work of signal prior to relinquishment of State 225. Asked if Lot 26 is in area A or area B. After learning that Lot 26 was in Area A, asked if a public access easement exists to allow the public to access trails in Area B.
14. Asked if conditions were included to provide a standard bus stop on Las Positas Road.

15. Asked if proposed five-foot trail in a ten-foot easement is adequate. Five feet is not a lot of room when considering pedestrian traffic.

Rob Dayton, Transportation Planning Supervisor, affirmed that it would be determined in the future how signs would direct people from both streets to the trail. Staff presumes that bicyclists will not use the trail and ride along road; the trail will consist of decomposed granite and therefore uninviting to bicyclist.

John Gray, URS, EIR preparer, stated that creek cross-sections are derived from the EIR and referenced Figures 3.2 and 3.3.

Ms. Hubbell stated findings related to Charter Section 1507, while not included in the EIR, are included in the Specific Plan findings for project approval, referenced page 36, E.3. She stated that conditions of creek restoration are protected by bonding as security for completion; similar conditions may not be included in grading, but could if necessary. Setbacks are based on fact that this is a more rural area of Arroyo Burro Creek and initial direction came from Planning Commission, based upon less urbanization. Rural areas were determined in the draft Creek Development Standards and the setback in those areas was set at 100 feet. The only place in the City that describes how top of banks are determined is in the Zoning Ordinance and is focused on Mission Creek. For consistency, the City applies same approach to top of bank determinations for all creeks in the City.

Mr. Dayton stated that they have State Transportation Improvement Program monies for the roundabout and are proceeding with it; however, the City does not yet own State Route 225 (Cliff and Las Positas). Money has been pushed out two years, when it is anticipated that the City will own the road. It is recommended that the roundabout not be designed before the City takes it over since City has different standards than Cal Trans. Suggest that applicant spend money on the design and the City could plan design as if it owns the road. That approach would benefit the City by being positioned to begin construction and also allow allocation of State monies for construction. In the EIR, the fair share mitigation amount indicated is approximated at \$89,000. The cost design for the roundabout is in the range of \$150,000-\$250,000. The money difference would have to be addressed.

Mr. Lee stated that the creek will be maintained in perpetuity by a Homeowner's Association. Due to the geologic instability immediately upstream, but not present on the section proposed for development, there are concerns for what kind of restoration activity might be appropriate there. He commented on the two blowouts along the creek; the second one (site of the proposed butterfly habitat) is not a blowout so much as activity that took place centuries ago. The first blowout was permitted to be repaired in 1999, but out of consideration for processing of this application, he was advised not to take any action.

Mr. Dayton stated that the original recommendation for a pedestrian facility on the bridge was, instead of putting four feet of sidewalk on both sides, move the sidewalk to 8 feet on one side for clear separation.

Ms. Brooke clarified the balancing of General Plan policies; the recommendation of reducing the bridge from 8 feet to 4 feet was a part of that balancing. The trade-off is that every effort be made to further protect the creek as much as possible.

Mr. Lee stated there is only a bus stop on the northbound side of Las Positas Road, but not the southbound side. He would support a condition requesting him to put in a bus stop in an appropriate location.

Jill Zachary addressed removal of invasive non-native species upstream of the project site. The County Agriculture Commissioner's Office has formed the Weed Management Area that includes Arroyo Burro Watershed with arundo as its area of focus. They are very interested in ways to remove arundo throughout the watershed. As far as the City Creeks Program is concerned, their focus is limited to City-owned property. The arundo in the Arroyo Burro Estuary area will be removed when the estuary restoration project is constructed. Also stated that the proposed project does not include fifty feet from the centerline on both sides of the creek to allow for the restoration; would hope that Commission addresses that concern.

Recessed at 1:04 p.m., and reconvened at 2:04 p.m.

The public hearing opened at 2:04 p.m., and the following people spoke in favor of the project:

Ridge Baccash (who read a letter from the Director of Braemar Ranch Homeowners Association)
Walter Knapp
Robert Rice
Lee Moldaver
George Olson
Marion Gibson
Jocelyn Hampton
Randy Mudge

The following people spoke in opposition to the project:

Naomi Kovacs, Citizens Planning Association
Dianne Channing
Eddie Harris

Commissioner Jacobs returned at 2:33 p.m.

With no one else wishing to speak, the public hearing was closed at 2:49 p.m.

Commissioners' questions and comments:

1. Asked if there is any way that public improvements (i.e., signal, roundabout) could be protected from future activities that might curtail them. Wonders if bike path is successful, will residents of Alan Road be happy. Concerned with potential for public opposition when times comes to put in signal or roundabout.
2. Asked if the traffic signal is traffic mitigating device in a positive sense by slowing traffic on Las Positas Road. Feels noise generated by speeding vehicles might be decreased by having a light in the middle.
3. Asked if there is anything that can be done to protect the large threatened oak tree on the creek bank.

4. Thanked everyone for coming and speaking. Has never seen an applicant who has gone further to do creek restoration for the City. If approved, could be held as a model for other developments adjacent to a creek. Noted what a benefit the bridge will be for fire protection by providing Fire Department access to hillside. Will end issue of potential through street for those on Alan Road, as they will only be adding two homes to that area and putting in a cul-de-sac, and also feels roundabout is a must. Disagrees with staff on the setback; does not feel we need a 100 foot setback from creek. Important to note these houses range from 4,500 square feet to 1,800 square feet; feels we are getting a good mix of sizes. This project will benefit the community.
5. Cannot support this project because of the premise of annexation, and another concern is rezone. Had the land come in zoned and planned as residential use he would have been more comfortable. Feels this land is one of the last areas of open space. Feels rezoning impinges upon the tributary to the creek and other areas and water quality will be worse off than now. With the rezone comes traffic impact on Las Positas and 101. Impact will be daily since residents will not have options and depend on Las Positas and 101. Feels EIR is deficient for failing to raise question of Charter Section 1507. Likes Alan Road project alternative with smaller amount of units. Concerned about and asked if it is necessary for garages to be so near to tributary, would like to see them further away. Raised concerns about bridge, where City's parkland is being devoted to road use as opposed to being kept open land.
6. Feels our City is the way it is because we have held developers to certain standards. Feels there is a crowding of large homes and is concerned with how they impact center drainage channel. However would like to eliminate Lot 7, and use some of the money towards creek restoration downstream; would be ideal. Feels project itself is exemplary and could be used as a model for future developments. Feels project addresses maximum public benefit and has no problem supporting it.
7. Continues to be on the fence on this project. Housing on a sliding slope is a concern; feels a residential ranchette model would be a more ideal development with 10 or fewer homes off of Alan Road. There is no consolidated long-term plan for the Las Positas Valley. Does feel the trail is very positive and the bridge should remain as proposed. Likes the 100 foot setback and eliminating Lot 7 would benefit the creek. Would like to see MTD bus stop and use of recycled water for watering vegetation. Path should be ADA accessible. Conditions of approval may not have language to require traffic signal, but if disputed in 10-15 years, can refer to today. Looking at SP-9, it begins to set the template for the Las Positas Valley long term; would like to see 100-foot creek setback for buildings and structures included in SP-9 before going to City Council. Suggests a maximum density as 1.6 units per acre seems a little dense for an area that is now open space.
8. Would like the threatened oak tree on the creek specified under tree protection. Feels project is too dense and more open space is still needed. Would like a reduction in the number of residences. Likes the idea of walking path to beach, but not ready to support the project because of density.
9. Disappointed that the Commission cannot agree to the benefits this proposal. Feels benefits to community far outweigh costs; certainly supports this project. Does not feel this proposal is too dense.

10. One commissioner stated that the concern is the westerly 4.4 acres that result in a loss of open space; believes in the integrity of open space.
11. Does not know how we can lose this opportunity. This project not only sets an example to other developers, but takes a blighted area and a distressed creek and makes it into something great. Feels this project respects the open space.
12. Asked if a 100-foot setback would that mean fewer units would be built. Asked if no homes would be in 100-foot setback, would the road be acceptable in the 100-foot setback.
13. Noted that this is taking a blighted space and making it something better; has to say that with all the experts, feels issue of setback would be best advised by the geomorphologist and provides greater sense of trust. Stated the creek setback is an important issue.

Mr. Dayton noted that without the signal, there would still be the connections from the road and the easements in place as the applicant's proposed across the bridge. The City wants the signal; Caltrans does not because it has a different vision for the road. Whether the signal goes in or not will not impact the public's right to go use Alan Road and vice versa. The signal should not slow traffic and would only be triggered when a pedestrian hits the button, or car enters or leaves park or development. Discussion will surface once the street is owned by the City.

Mr. Lee feels he can do something to protect the oak tree in the interim. He reminded the Commission that it was the City that had targeted annexation of this property for over 30 years. The City's sewer main runs across this property right now. He has worked with staff for the past year and was assured that, if the environmental constraints are respected, the number of houses does not matter. It is the number of houses proposed that allows the project to include the proposed benefits, such as creek restoration; cannot go forward with a loss of 6 lots.

Mr. Gorrell said that, with regard to annexation, Mr. Lee had met with Don Olson onsite and it was looked at as being brilliant to take a piece of land with a reasonable development and then have money to do what has been proposed for creek environment. He stresses how community cannot lose out on this opportunity.

Ms. Hubbell stated it would take permits for creek alterations to save the tree and that would ultimately come back to the Commission. Decision must be made to ultimately save the tree, but it is possible that even if the tree is protected, future erosion may still result in tree still being removed. A condition could be added to protect the tree in the interim.

Mr. Swanson addressed the creek buffer.

MOTION: Mahan/Myers

Certify the EIR and approve the project as shown in EIR Figure 4-5, with 23 units, making the Statement of Overriding Considerations outlined in the Staff Report, including an additional statement about the benefit of the bridge for fire protection, making the findings outlined in the Staff Report, and subject to the Conditions of Approval, amended as follows: Houses on lots reduced in size to fit Figure 4-5 design shall be reduced in size proportionate with reduced lot size; Add a southbound MTD bus stop on Las Positas Road; add use of recycled water for irrigation, if feasible; bridge width shall not be reduced; require trail easement in Area B; require 8 to 10-foot wide

pedestrian path; all funding for traffic mitigation to be used for Cliff Drive/Las Positas Road roundabout design; the roundabout design shall be completed prior to issuance of any Public Works Permits and shall be completed prior to issuance of the last building permit; the traffic signal shall be installed if Route 225 relinquishment is completed prior to issuance of the last building permit; and provide for interim protection of threatened oak tree on the creek bank

Comments to the motion:

Ms. Hubbell stated we can require the design of the roundabout be completed prior to the issuance of public works permits, but that carrying it out is tied to the last building permit. Other thing missed is to require protection of the endangered Oak tree.

Maker of the motion agrees; however, the oak tree is in the county and annexation has not yet been approved. Applicant has to wait until after it goes to City Council and then to goes to LAFCO for annexation. Consensus was applicant should protect it now. Regarding Las Positas Road project entrance design requirements, that is a requirement to design and bond for the traffic signal prior to public works permits; construction of the traffic signal is tied to the last building permit; traffic fee mitigation is set and used for design stage of roundabout per Mr. Dayton's request.

Mr. Lee stated he finds all conditions acceptable and hopes the project is approved as revised.

This motion failed on the following vote:

Ayes: 3 Noes: 3 (Jacobs, Larson & White) Abstain: 0 Absent: 1 (Jostes)

Commissioner Jacobs feels the project is a balancing act trying to find out where the benefits leverage the unmitigatable impacts of the project; some things will be permanently impacted that cannot be fixed. Feels option 4.4 is the middle ground, and includes a recommendation for using a uniform 100 foot setback that is consistent with what is being done in the City; states that no roads, no structures should be located in the 100 foot setback. Feels we should support the recommendation for this area. Geology is not perfect in terms of the creek and the hillside coming together. Supports motion made in other areas; would like to see Specific Plan #9 memorialize the 100 foot setback (no buildings, no structures, no roads).

Commissioner Myers asked if, after creek restoration, the setback as stated in this motion could actually become 120 feet or 80 feet because of changes in creek bank. Asked for an idea of the restoration as it stands now.

Mr. Gorrell made clear that option 4.4 eliminates a group of homes and kills the project.

Mr. Swanson feels that the creek restoration alignment is a detail design issue and that the 260-460 feet allow plenty of room for a directed goal in design.

Recessed at 4:32 p.m., and reconvened at 4:50 p.m.

Mr. Lee stated that, if he accepts option 4.4 as discussed, he will lose six homes and feels he will still be required by the City Council to take at least one home away and replace with workforce

housing. This will not be economically viable project and therefore unable to do creek restoration as envisioned. Willing to try with PC support, but is unsure on what more can be done.

Commissioner Jacobs said she would make a motion to propose option 4.4 with the remainder of the motion being what Mr. Mahan proposed earlier. Commissioner Larson agreed.

Commissioner Mahan asked that Commissioner Jacobs reconsider her stance on the 100-foot setback as it has never been required before and expressed concern with precedent being set and being restrictive for any creekside project in the future.

Commissioner Jacobs feels that the 100-foot setback is the middle road, holds firm to her the recommendation, and would like to see it enacted in this project.

Mr. Wulbrandt, attorney for the applicant, stated that Mr. Lee is asking that if the Planning Commission approves the project at 18-19 units, could it be made known clear to City Council that the Commission balanced the project's provisions. If the Commission removes units from the project, yet asks for the same level of project benefits, there just isn't an opportunity for affordable housing units.

Mr. Gorrell asked to go by the science and stated the arbitrary numbers are wrong. The EIR was written before the restoration proposal by the geomorphologist. When they met with staff and the geomorphologist, the request for more information surfaced. From a cost and engineering perspective, it was difficult to design a project before knowing what the best answer would be. He wonders if Staff and the applicant team could work together again and work toward a scientific reasoning of where setback should be.

Commissioner Larson thinks of Alan Road backyards, and looks at setback in terms of how far away from creek, restored or not, can we get to spare property and to spare the creek. Feels a scientific resolution would be fine; have to look beyond applicant's property for creek protection.

Dan Meade, applicant's biologist, stated that applicant has been moving to project resolution. Creek used to occupy whole bottom of Arroyo Burro; not situation with the creek anymore. Feels solution presented helps Alan Road and can be done within a set area.

Commissioner Larson stated that is why she feels 4.4 will work and offers a trade; you get setback and a few less houses. She has consistently said fewer houses; feels breathing room may be better for the creek. She could support something that backed more houses off the creek or reduced them in that area.

Commissioner Myers said what they have here is still an unknown of where that creek will end up and what an actual setback will be. Looks for a scientific deliberation brought to staff for a new discovery of where creek will go; will it take different shape or spot when restoration takes place.

Mr. Lee requested a continuance to study issues that surfaced today.

MOTION: Jacobs/White

To continue the project indefinitely, with direction that option 4.4 be studied with a more detailed concept plan for creek restoration that may change where the setback and buffer will be located and will show how the restoration will affect the City parcel.

Jill Zachary, Creeks Program Manager, addressed the Planning Commission and stated that there is a proposed setback, there is a proposed creek restoration, but it is not clear how the ultimate restoration will affect the proposed setback. If they had more detailed concept plans, then the PC would be able to look at them with relation to the applicant's proposed project. Stated that there is 5.89-acre parcel that is owned by the City intended for Park and Recreation use; if understood how much of parcel would be needed, the Planning Commission could take into that into consideration. Acknowledges Mr. Swanson's presentation of idea, but requests to see it on paper to see what it means when you take 50 feet from center line and how it impacts the proposed project.

Ayes: 4 Noes: 2 (Maguire & Myers)

This decision is not appealable to the City Council.

VI. ADMINISTRATIVE AGENDA

A. Committee and Liaison Reports.

None.

B. Review of the decisions of the Modification Hearing Officer in accordance with SBMC §28.92.026.

None.

VII. ADJOURNMENT

The meeting adjourned at 5:12 p.m.

Submitted by,

Deana Rae McMillion, Admin/Clerical Supervisor for Liz N. Ruiz, Planning Commission Secretary