



# City of Santa Barbara

## Planning Division

### PLANNING COMMISSION MINUTES

November 17, 2016

#### **CALL TO ORDER:**

Chair Campanella called the meeting to order at 1:05 P.M.

#### **I. ROLL CALL**

Chair John P. Campanella, Vice-Chair June Pujo, Commissioners Jay D. Higgins, Sheila Lodge, Deborah L. Schwartz, and Addison Thompson.

Absent: Commissioner Mike Jordan

#### **STAFF PRESENT:**

Beatriz Gularte, Senior Planner

Tava M. Ostrenger, Assistant City Attorney

Barbara Shelton, Project Planner/Environmental Analyst

Steven Greer, Project Planner/Environmental Analyst

Kathleen Kennedy, Associate Planner

Julie Rodriguez, Planning Commission Secretary

#### **II. PRELIMINARY MATTERS:**

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

None.

B. Announcements and appeals.

None.

C. Review, consideration and action on the following draft Planning Commission Minutes and Resolutions:

1. November 3, 2016

2. PC Resolution No. 029-16  
1400-1700 Blocks of Cabrillo and 1414 Park Place

3. PC Resolution No. 030-16  
1127 Bath Street

**MOTION: Schwartz/Pujo**

Approve the minutes and resolutions as presented.

This motion carried by the following vote:

Ayes: 6 Noes: 0 Abstain: As noted. Absent: 1 (Jordan)

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

Chair Campanella opened public comment at 1:07 P.M. and, with no one wishing to speak, closed public comment.

**III. ENVIRONMENTAL HEARING:**

**ACTUAL TIME: 1:07 P.M.**

**APPLICATION OF RRM DESIGN GROUP, ARCHITECT FOR DR. HERB BARTHEL, 1837½ EL CAMINO DE LA LUZ, APN 045-100-065, E-3/S-D-3 (ONE-FAMILY RESIDENCE/ COASTAL OVERLAY) ZONES, LOCAL COASTAL PLAN DESIGNATION: RESIDENTIAL (5 UNITS/ACRE) (MST2002-00214)**

A Second Revised Draft Environmental Impact Report (DEIR) has been prepared for the 1837 ½ El Camino de la Luz residence project, pursuant to the California Environmental Quality Act, which evaluates environmental impacts of the proposed project.

The proposed project consists of a 1,505 square-foot (net), two-story, single-family residence with an attached 429 square foot garage on a 23,885 square foot vacant bluff-top lot in the appealable jurisdiction of the Coastal Zone and Hillside Design District. Grading quantities total approximately 288 cubic yards of cut and 21 cubic yards of fill. The proposed residence is 41% of the Guideline Floor to Lot Area Ratio (FAR). The proposal will require Planning Commission review and approval of a Coastal Development Permit and certification of the environmental document.

The hearing is to receive public and Commission comment on the draft environmental document only. No action on the environmental document or project permit request will be taken by the Planning Commission at this hearing. The public review period for the DEIR extends through November 30, 2016.

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Phone: (805) 564-5470, ext. 4560

Kathleen Kennedy, Associate Planner, gave the Staff presentation. Barbara Shelton, Environmental Analyst/Project Planner, and Steve Rodriguez, Rodriguez Consulting, Inc., were available to answer any of the Commission's questions.

Detlev Peikert, Architect, RRM Design Group, introduced Richard Monk, Attorney, Hollister & Brace, who gave the applicant presentation. Rick Gorman, Geologist, Earth Systems Pacific, and Dr. Herb Barthels, owner, were also available to answer any questions.

Chair Campanella opened the public hearing at 1:40 P.M.

The following people commented on the project:

1. Sabrina Venskus, Venskus and Associates, a public interest law firm, attorney for Citizens to Preserve and Protect the Mesa's Coastal Bluffs, stated that the lot is not a legal lot and that the applicant was fully compensated when he sued the title company in the early 1990's claiming the lot could not be developed. The EIR is deficient because there is no discussion of whether or not it is a legal lot. With respect to the biological impacts, the conclusion is not supported by substantial evidence. The biological assessment is insufficient to support the DEIR's findings because there were no surveys done for sensitive invertebrates. The DEIR does not appear to conduct any rare plant surveys. The geological findings are not supported by substantial evidence. The required bluff and creek setbacks do not take into account landslides. The mitigation measures proposed do not provide sufficient detail to ensure that they will be enforceable. The DEIR's conclusion with respect to land use policies are unsupportable because the analysis is missing on a number of the policies. The DEIR does not analyze or evaluate ESHA. The findings regarding shoreline access are not supported by substantial evidence. The visual quality analysis is deficient. The determination that the project is potentially consistent with Coastal Act Policies including LCP Policy 9.1 related to visual resources are not supported by substantial evidence because the figures in the analysis indicate that the project as proposed would obstruct public views of the ocean from La Mesa Park and the bridge. The DEIR is most deficient in the feasible alternatives analysis. CEQA provides that agencies must engage in a reasonable range of alternatives. There is only one alternative that is only slightly smaller than the proposal and does not reduce the significant impacts to a level of insignificance. There are alternatives to the project, a much smaller alternative. Time was ceded to Ms. Venskus by Elise Cossart-Daly of Venskus and Associates, Daniel McCarter, and Sarah M. McCarter.
2. Ray Franco, neighbor, distributed written comments to the Commission and staff. He agrees with Ms. Venskus that the applicant does not have the 15 foot easement that was originally presented to the City Council when the lot split was approved. He showed a copy of the original settlement agreement signed by all parties that states that they agree that there is a 7.5 foot easement but that it also includes a list of encroachments that were to be preserved at that time. He stated that as of two days ago, he was told that he was going to have to tear down his wall. He stated that this is not the amicable way to get a project done. He provided a PowerPoint presentation showing the history of the project area since 1928. He stated that there would be 100 foot caissons. He showed slides from EIR geological reports regarding fractures in bedrock. He disputes the statement made at the site visit that wave action does not have any impact on the bluff and that the statement that caissons will stabilize the bluff is false. Time was ceded to Mr. Franco by Lou de Bourbon, Thomas Morrison, and Nancy Brock.

With no one else wishing to speak, the public hearing was closed at 1:59 P.M.

Mr. Monk rebutted comments by Ms. Venskus regarding the referenced lawsuit settlement by stating that the lawsuit had nothing to do with the legality of the lot, but with the width of the easement. The parcel was created by a 1958 lot split approval before it was ever acquired by Dr. Barthels. There is no challenge to the validity of the lot.

The Commissioners made the following comments:

Commissioner Higgins:

- Recommends that the Initial Study section about plans and policy discussion be moved forward into the body of the document.
- Would like to see more information from Transportation Division staff on vehicular access and whether the pinch point will be consistent with their standards and whether they have any further mitigation or design considerations.
- Would like to see more of the neighbor's point regarding removing some structures in the easement.
- Would like some discussion included in the section on the Subdivision Map Act regarding the original condition for a fifteen foot easement.
- Incorporate slope definitions including a succinct discussion on whether or not scientific terms come with a regulatory standard at the local level and the coastal level, and even the State level for the Streambed Alteration Agreement.
- Appreciates Ms. Venskus' comments about whether the City has adequately addressed alternatives and is receptive to hearing her alternatives.
- Would like clarification on the nature of the existing pedestrian easement prescriptive or otherwise and whether or not there is any likelihood that the Coastal Commission will exact a public easement out of the CDP and if it is a possibility, need to evaluate whether or not it will have an effect on the slope.
- Would like to see information in the document on construction vehicles and what types can be used, such as cranes, etc.

Commissioner Lodge:

- Concurred with Commissioner Higgins' comments.
- Referenced section 3.3.2 on page 3-5 of the DEIR and could not support a vegetated roof.
- Would like to see that the solar panels are included in the photo simulations.
- Would like to see clarification on the access situation between what is in the last sentence in section 4.2.1 on page 4-1 referencing the trail and picture 3.3-8 that indicates different contour lines for the trail.
- Would like to see clarification on the terms coastal bluff, top of bank, and top of canyon slope.

Commissioner Thompson:

- Commissioner Thompson would like to see the vegetated roof evaluated by the Fire Department, since they have recently disapproved similar designs, and include the Fire Department's response in the EIR.
- Stated that the depiction of the coastal top of bluff is erroneous where it goes down the hill. The top of canyon ends eight feet from where the top of bluff is shown going downhill. It makes more sense for the top of bluff to connect to the top of canyon.
- The top of canyon versus the top of bank for the creek needs more clarification. On the topographic map, there is no break from the embankment going down to the creek so there is no justification to show a different top of creek bank and call something else the top of canyon.
- A view analysis from the ocean as required on all other coastal development permits needs to be included in the document.

Commissioner Schwartz:

- Referenced page one of the staff report stating that the focus has been on the potentially significant project impacts on visual aesthetics and geology. There are other outstanding issues outside of these two areas that have not been adequately vetted, such as the vehicular and pedestrian access and how it relates to the acceptable width of the easement. Comprehensive analysis is needed.
- In mentioning the geotechnical studies, she remains skeptical of the data that has been produced regarding the slope stability in this area of the Mesa. With the history of slides on the Mesa, she is not confident that we have the full history before us to properly analyze the likelihood of additional slide in this area.
- Stated that introducing the geologic term 'canyon top of slope' is problematic in having policy implications that are not incorporated into other major policy documents like the Coastal Act.
- Wants to see a current written opinion from the California Coastal Commission on all of the updated information.
- Regarding pedestrian public access along the easement, she recalled that in 2012, the neighbors submitted a variety of legal documents that should have been resolved today and that may affect decisions made as to the width of the driveway, the development envelope, the landscaping, and what else has to be provided for safe access for the public to continue pedestrian access to the bluff top and stairs to the beach.

Commissioner Pujo:

- Would like to see explanations in the introductory portions of the document that discuss that it is a focused EIR, as well as a discussion about the ability to continue to use the same baseline and its current validity.
- Recognizes the incredible amount of work and studies that have taken place on a difficult site and that it is an extraordinary effort.
- Agrees with Commissioner Thompson on the need for a visual analysis. The focus has been on the Lighthouse Bridge, the canyon, and La Mesa Park. There is a deficiency

in the discussion about the views from the beach and the ocean. The Initial Study does include some older visual simulations from the beach but are hard to read and do not give a clear picture of what the potential impact is from the beach. Suggest bringing it forward in the document as its own section with better resolutions or produce new simulations that show that the views are limited.

- Requests clarification about mitigation measure AES-2 in regard to the maximum allowed height of the vegetation.
- Verify the size of the proposed caissons and provided a discussion on how the caisson would affect slope stability.
- The policy section of the DEIR includes LCP policy 6.10 related to setbacks from a creek and the top of bank from a creek. In order to know if we meet consistency with that policy, we need to know what that top of bank is and include top of bank discussion and diagram in the document.
- More details are needed on what measures will be required to be assured that the landscaping and irrigation on the property will not exacerbate the conditions and to fully mitigate potential saturation of the soils on the site.
- In terms of monitoring for soil saturation, include not only for the creek restoration portion, but for the watering portion as well, and include monitoring, maintenance and reporting similar to what is in the Creeks Division letter so that we know that it will be carried out over time.
- Agrees with Commissioner Thompson on the top of bluff and would like further clarification on the location of the top of bluff and how it coincides with the Coastal Act definition of a step-like feature.
- Agrees with other Commissioners' comments about access and Commissioner Higgins comment, in particular, on needing more information on the pinch point and how feasible it would be for a car or construction equipment to make it to the other side and what to do if it can't.
- Would like clarification on the easements on whether or not it goes to the bottom of the bluff and clarification on who has rights of access through the easements.
- Would like a review of the document and confirmation that one alternative is adequate and how it relates to significant impacts and whether or not a second alternative should be chosen.

Commissioner Campanella:

- The definition of the top of bluff and the top of canyon slope really need to be defined. He understands that with the Coastal Commission there is agreement on the top of bluff and agreement on erosion. We do not have an agreement on a recommended setback from the top of bluff line. He wants to see an agreement by all (e.g., Santa Barbara Urban Creeks, Coastal Commission) on the definition and the proper setback when this document returns.
- The document as put together is a fine piece of work and easy to understand.

**ACTUAL TIME: 4:00 P.M.**

A. Committee and Liaison Reports

1. Staff Hearing Officer Liaison Report

None was given.

2. Other Committee and Liaison Reports

a. Commissioner Schwartz reported on the City Water Commission meeting she attended earlier in the day.

b. Commissioner Lodge reported on the Historic Landmarks Commission meeting of November 16, 2016.

c. Chair Campanella wished all a Happy Thanksgiving and adjourned the meeting to December 1, 2016.

IV. **ADJOURNMENT**

Chair Campanella adjourned the meeting at 4:11 P.M.

Submitted by,

  
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Julie Rodriguez, Planning Commission Secretary

