

MINUTES

Joint Meeting of the Scotts Valley City Council and Redevelopment Agency Board of Directors

Date: August 19, 2009

POSTING:

The agenda was posted on 8-14-09 at City Hall, the SV Senior Center, and on 8-15-09 at the SV Library by the City Clerk.

CALL TO ORDER 6:00 p.m.

PLEDGE OF ALLEGIANCE and MOMENT OF SILENCE

ROLL CALL

Present:

Mayor Johnson
Vice Mayor Reed
Council Member Aguilar
Council Member Bustichi
Council Member Lind

City Manager Ando
City Attorney Powell
Public Wks Director Anderson
Police Chief Weiss
Interim Community Dev Dir Westman
Senior Planner Fodge
City Clerk Ferrara

COMMITTEE REPORTS VM Reed reported that the Library Subcommittee met and discussed the hiring of a library consultant and received an update on the proposed architect.

CM Aguilar reported that AMBAG met and discussed two key issues. She reported that AMBAG was able to sell its property at Ft. Ord, which will relieve some of their budget concerns. She also reported that AMBAG staff has met with CM Ando regarding the issue of energy conservation, and a more detailed report will be forthcoming.

CM Bustichi reported that the Santa Cruz Metropolitan Transit District met and discussed restructuring their meetings to reduce staff time and save money. He reported that they also discussed the retirement of the General Manager, Les White, which may in December 2010 or earlier.

CM Bustichi reported that the Skypark Subcommittee met for a conference call with Stanbery Development regarding the Town Center. He reported that Stanbery is still working on ideas and plans for the Town Center, and they are planning to attend a City Council meeting in October to report and talk about the current retail market.

PUBLIC COMMENT No one came forward.

**ALTERATIONS TO
CONSENT AGENDA**

***M/S: Aguilar/Reed
To approve the Consent Agenda.
Carried 5/0***

Consent Agenda:

- A. Approve check register – 8-11-09, 7-31-09, 7-28-09
- B. Second reading and adoption of Ordinance No. 16-ZC-165.1 approving zone change no. ZC03-001 to change the zoning designation from commercial service (C-S/PD per CC Ordinance No. 16-ZC-165) to residential high density (R-H) and planned development zoning no. PD03-001 (R-H/PD) for the creation of five lots and five detached dwellings and related property improvements on a vacant parcel on Scotts Valley Drive // APN 022-861-21
- C. Approve contract for professional services with Page & Moris for library programming in the amount of \$17,712.50
- D. Approve Whispering Pines Drive Transportation Enhancement Project contracts:
 - (1) Approve award of construction contract to Silicon Valley Paving, Inc. in the amount of \$196,420
 - (2) Approve Contract for Professional Services with Baseline Land Surveyors, Inc. in the amount of \$2,150
 - (3) Approve Contract for Professional Services with Bauldry Engineering, Inc. In the amount of \$4,560

**ALTERATIONS TO
REGULAR AGENDA**

***M/S: Aguilar/Reed
To approve the Regular Agenda as amended moving item 4 to be heard before item 3.
Carried 5/0***

REGULAR AGENDA

1. Discussion: Review of 2009/2010 General Fund budget

CM Ando presented the written staff report and responded to questions from Council.

VM Reed recommended looking at one day per month furlough, which is a 4% reduction in pay, with Police Officers being exempt due to shift work. He asked CM Ando to prepare options for between \$400,000 to \$500,000 in reductions per year to be review at the next City Council meeting.

CM Aguilar requested a possible budget enhancement by having CM Ando evaluate the possible pay-down of the \$3 million that the Redevelopment Agency owes to the General Fund, without negatively impacting the Redevelopment Agency. She recommended closing down between Christmas and New Year's, instead of one day per month, because of the additional savings of electricity, etc. and asked CM Ando to evaluate the cost savings.

Debra Bowen, Director of the Cabrillo Stroke Center and representative of the Human Care Alliance, asked the Council to not reduce the funding to the Human Care Alliance for the 2009-2010 budget that had been previously approved.

CM Bustichi stated that he agrees with the comments made by CM Reed. He stated that we need to cut at least \$174,000, which is the amount of the State take-away, in order to recoup that amount. He agreed with the possible closure between Christmas and New Year's.

CM Lind recommended looking at the \$400,000 range for reductions.

2. Consideration of participation in the Proposition 1A Loan Securitization Program

CM Ando presented the written staff report and responded to questions from Council. He stated that this was an informational item only and no action is required at this time. He also stated that he will keep the City Council informed as legislation comes forward regarding this issue.

PUBLIC HEARINGS

4. Consideration of approval of resolution eliminating building and electrical permit fees for solar system installations

ICDD Westman presented the written staff report and responded to questions from Council.

VM Reed recommended a one page document be prepared and made available that informs the public on the process to install solar.

ICDD Westman stated that the Building Official, Joe Strasser, is certified in green building and is available to provide information to the public by phone or at the counter. She stated that they will work on putting together a hand-out sheet.

CM Lind recommended placing solar information on the website.

ICDD Westman stated that they are looking at putting a packet of information on the website regarding green building, which will include solar.

PUBLIC HEARING OPENED - 6:44 PM

No one came forward.

PUBLIC HEARING CLOSED - 6:45 PM

M/S: Bustichi/Aguilar

To approve Resolution No. 1198.57 eliminating building and electrical permit fees for solar system installations.

Carried 5/0

3. **Consideration of Planning Commission recommendation of approval to the City Council of the "Polo Ranch" 40-lot subdivision on 113.5 acres, relocation of the historic Polo Barn and related property improvements, a Development Agreement, and a Statement of Overriding Considerations for significant and unavoidable environmental impacts at the End of Santa's Village Road, APNS 024-281-03 & -04 (Planning File Nos. SPR04-001, GPA04-003, ZC03-003, PD97-006, LD97-001, HAP08-001, U08-008, DR04-016, and DA09-001)**

SP Fodge presented the written staff report and responded to questions from Council. She reviewed the following recommended changes and corrections from staff:

- Pages 23-33 in the staff report are duplicates.
- Page 48, Transportation and Circulation, mitigation measure number 3, be changed to delete the following wording at the end of the sentence "~~which was previously estimated at \$400,000.~~"
- Page 83, item IV be changed as follows: The project will result in the dedication of approximately 101 acres of ~~publicly~~ privately accessible open space to be ~~enjoyed by~~ preserved within the Scotts Valley Community;"
- Page 88, item 21, add the following sentence: "To maintain the qualify of life and view sheds, the developer shall maintain trees near Lots #38 - #40 if possible."
- Page 97, item 93, delete and replace with the following: "Simultaneous with recordation of the CC&R's, the developer shall record for each property a stand-alone disclosure statement approved by the SVWD acknowledging nuisance factors associated with the SVWD's operation of the ORWTP, including odor emission, noise, and periodic access by chemical delivery trucks and other equipment. The disclosure document shall be provided by the SVWD and/or the developer. Full enforcement of this condition shall be the responsibility of the SVWD."

Brian Olin, Lennar, thanked City staff, City commissions, and various agencies for their support over the years regarding this development, and responded to questions from Council.

PUBLIC HEARING OPENED - 7:03 PM

Vince Cheap, California Native Plant Society, presented a letter from Wittwer & Parkin, LLP (Attachment A) regarding concerns that they still feel need to be addressed. He stated that they did not have any new comments or concerns.

The City Council took a 20 minute recess in order for the City Attorney and Planning Department staff to review the letter submitted by Mr. Cheap.

Tim Maximoff, Scotts Valley resident, expressed concerns regarding screening of lighting, a gate for the emergency vehicle access road, construction equipment access on Succinto Road, and protection of trees/tree preservation.

Frank Kertai, SV resident and President of the Heritage Parks Homeowners Association, spoke regarding the flora that is unique to this property and its ongoing protection, and urged the Council to make sure the environment is preserved. He questioned the water connection fees and whether this development will be part of the Scotts Valley Water District. He also expressed concerns regarding traffic impacts on Highway 17 from this development.

PUBLIC HEARING CLOSED - 7:35 PM

CA Powell responded to the letter from Wittwer & Parkin (Attachment A) and submitted by Vince Cheap, stating that Wittwer & Parkin does not believe the City adequately responded to their comments. She reviewed each item in the letter and stated that the City believes the issues addressed in the letter have been adequately addressed in the EIR.

CM Bustichi stated that he wants to be sure that there is a condition requiring the barn to have a fire sprinkler system installed that adequately protects the barn in its current form/use, with adequate volume to allow for the addition of sprinklers for any future tenant improvements, before the City takes possession of the barn. He stated that he would also like to see beams added as necessary to protect the structural integrity of the building once the fire sprinkler system is installed.

Brian Olin, Lennar, responded that based on the development agreement Lennar plans to provide the service to the edge of the barn.

CA Powell stated that the sprinkler system installation is a requirement of the EIR that was approved two years ago.

PWD Anderson stated the following changes are required on page 48, Transportation and Circulation:

**"Glenwood Drive/SR-17 SB/Scotts Valley Drive Granite Creek Road/
Santa's Village Road/SR-17 Northbound Off-ramp**

~~The first two~~ Mitigation measures were identified for the Glenwood 47-unit subdivision and were required to be implemented by Ponderosa Homes, the developer of that project. The Polo Ranch developer shall contribute its fair share, based on a formula to be determined by the City, toward the cost of the installed improvements that implement these mitigation measures.

1. ~~Add a left turn lane on the northbound Scotts Valley Drive approach.~~
Widen the eastbound (off-ramp) approach to provide an exclusive right-turn lane.

2. Use "overlap" phasing, which allows drivers to turn right from eastbound Glenwood Drive on southbound Scotts Valley Drive at the same time that drivers are turning left from northbound Scotts Valley onto westbound Glenwood Drive. Modify the existing signal to provide a right-turn overlap phase.
3. Therefore, before grading permit issuance, the City shall calculate the required reimbursement amount and the Polo Ranch developer shall pay the amount to Ponderosa Homes, which was previously estimated at \$400,000.

Mayor Johnson expressed concerns about the cost for the proposed Polo Barn Subcommittee to study and evaluate the possible uses of the Polo Barn.

Brian Olin, Lennar, stated that Lennar would be willing to contribute an amount not to exceed \$5,000 toward any studies that the Polo Barn Subcommittee might need to perform.

CM Aguilar requested that the proposed Polo Barn Subcommittee be open to members of the Granite Creek area, not just the North Navarra area.

CM Aguilar expressed concerns regarding potential damage to North Navarra and Sucinto by construction equipment.

SP Fodge recommended the following change to item 69a, page 95:

- 69a. All construction activity shall be accessed through the main project entrance off Santa's Village Road unless the Public Works Department Director is notified and approves a change. If approved, the developer shall be responsible to notify residents adjacent to North Navarra Drive/Sucinto Drive of the approved times and duration of construction access on Sucinto Drive. However, once the developer completes the new bridge across Carbonero Creek, the main project entrance shall only be used for construction access unless the Public Works Director approves an exception to use of Sucinto Drive for an emergency or special circumstance.

Mr. Maximoff stated that he is concerned about construction equipment on Sucinto, because Sucinto is a very narrow street that cannot handle the impact and existing trees could be damage by the construction equipment.

M/S: Aguilar/Lind

To approve Resolution No. 1830 approving mitigation monitoring and reporting program (MMRP) for the amended project alternative #4 of the 40-lot Polo Ranch subdivision and related property improvements located at the end of Santa's Village Road / APN 024-281-03 & -04 as amended above.

Carried 5/0

M/S: Aguilar/Bustichi

To approve Resolution No. 1830.1 approving specific plan rescission SPR04-001 to ensure that a previous specific plan for 163 lots is no longer effective at the Polo Ranch site located at the end of Santa's Village Road / APN 024-281-03 & -4.

Carried 5/0

M/S: Augilar/Bustichi

To approve Resolution No. 1830.2 approving general plan amendment GPA04-003 to change the general plan land use designations from medium density, low density, and mountain single-family residential to medium density single-family residential and open space and public/quasi-public for the 40-lot Polo Ranch subdivision and related property improvements, located at the end of Santa's Village Road / APNs 024-281-03 & -04.

Carried 5/0

M/S: Aguilar/Bustichi

To introduce for first reading Ordinance No. 16-ZC-217 approving zone change ZC03-003 and planned development (PD) district overlay PD97-006 to change the existing zoning districts from R-1-10, R-1-20, R-MT-5 single family residential zones to R-1-10/PD, OS (open space), and P/Q, P/PD (public/quasi-public/planned development) for the 40-lot Polo Ranch subdivision and related property improvements, located at the end of Santa's Village Road / APNs 024-281-03 & -04, and waive the reading thereof.

Carried 5/0

M/S: Aguilar/Bustichi

To approve Resolution No. 1830.3 approving planned development permit P)D97-006, land division LD97-001, use permit U08-008, historical landmark alteration permit HAP08-001, design review DR04-016 for the amended project alternative #4 of the 40-lot Polo Ranch subdivision and related property improvements, and adopting statement of overriding considerations for significant and unavoidable environments, located at the end of Santa's Village Road / APNs 024-281-03 & -04, with conditions of approval as amended above.

Carried 5/0

CA Powell stated the Section 3.09(a)(i)(vi) of the Development Agreement needed to be amended as follows to be consistent with the mitigation measures: "(vi) Stubbing of utilities to the exterior of the new foundation, including electrical, gas, sewer, potable water, recycled water and water line for any fire safety sprinkling system, and fire sprinklers as required by the mitigation monitoring plan.

M/S: Aguilar/Bustichi

To introduce for first reading Ordinance No. 16-ZC-217.1 approving development agreement DA09-001 for the 40-lot Polo Ranch subdivision and related property improvements, located at the end of Santa's Village Road / APNs 024-281-03 & -04, and waive the reading thereof, with Section 3.09(a)(i)(vi) of the Development Agreement as amended above by CA Powell.

Carried 5/0

REGULAR AGENDA
(Resumed)

5. Future Agenda Items

CM Aguilar requested that an item be added to the next regular agenda to discuss AB 566 regarding the conversion of mobilehome parks to condominiums.

CONVENE TO CLOSED SESSION

The City Council convened to closed session at 8:19 p.m. to discuss the following items:

1. Pursuant to Government Code Section 54956.8, the City Council met in closed session to confer with the legal counsel regarding real property negotiations – APN 022-231-03.

RECONVENE TO OPEN SESSION

The City Council reconvened to open session at 8:45 p.m.

REPORT ON ACTION TAKEN DURING CLOSED SESSION

Mayor Johnson announced that there was nothing to report.

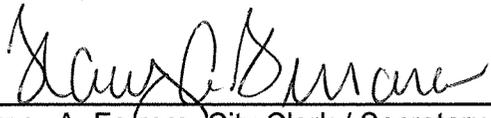
ADJOURNMENT

The meeting adjourned at 8:46 p.m.

Approved:


Randy Johnson, Mayor / Chair

Attest:


Tracy A. Ferrara, City Clerk / Secretary

Jonathan Wittwer
William P. Parkin
Ryan D. Moroney

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OF COUNSEL
Gary A. Patton

August 19, 2009

HAND DELIVERED

City Council
City of Scotts Valley
One Civil Center Drive
Scotts Valley, CA 95066

RECEIVED
AUG 19 2009
CITY OF SCOTTS VALLEY

Re: Polo Ranch 40-Unit Subdivision

Dear Members of the Council:

This office represents the California Native Plant Society (CNPS) and submits the following comments on the above referenced project on its behalf. CNPS also incorporated by reference all comments made on the Draft EIR and comments to the Planning Commission. Indeed, all of what is stated herein has been previously stated to the City in one form or another. Thus, CNPS is not alleging any new arguments. However, it wishes to make clear that its previous objections are still valid and that they reassert them here.

The City Has Failed to Respond to All Comments

The Response to Comments in the Final EIR is incomplete because the City failed to respond to all comments. "The evaluation and response to public comments is an essential part of the CEQA process. Failure to comply with the requirement can lead to disapproval of a project. (Discussion following CEQA Guidelines Section 15088; see also *Environmental Protection Information Center v. Johnson* (1985) 170 Cal.App.3d 604, 627; *Gallegos v. California State Board of Forestry* (1978) 76 Cal.App.3d 945, 952-955.) In the final EIR, the lead agency must evaluate and respond to all the environmental comments on the DEIR it received within the public review period. (Pub. Resources Code Section 21091(d)(2)(A); CEQA Guidelines Section 15088(a).) "There must be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice." (CEQA Guidelines Section 15088(b); see also *People v. County of Kern* (1974) 39 Cal.App.3d 830, 841-842 (comments may not simply be ignored)).

The City's response to this office's comments did not address three important issues raised in my comment letter. I specifically asked certain aspects of the management plan and endowment with respect to endangered plants onsite be addressed, such as the amount of the

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endowment, the type of management activities necessary for species survival, and identification of objective standards. Instead, the City simply defers such determination to a later date subject to City approval and review by the U.S. Fish and Wildlife Service. Standards, the amount of the endowment and management activities are improperly deferred, even when we have requested that such components be identified. Indeed, the City has also refused to assume ownership of parcels, or conservation easements on such parcels, containing endangered plants. There is no willing third party entity to take ownership of those parcels, and the City assumes that the homeowners association for the subdivision will assume ownership and management of the parcels. But, that is akin to the “fox guarding the henhouse.” This is particularly true since there is no identified party responsible for management and the Management Plan has yet to be developed (and the endowment has yet to be determined).

The City Improperly Skews the Alternatives Analysis by Refusing to Consider the Reality of Development Under Existing Zoning

As CNPS noted in its comments on the Draft EIR, the Draft EIR states that under current zoning and General Plan designation that 160 homes could be constructed. We pointed out that this is a gross exaggeration of what can be developed on the Property given legal and environmental constraints. The Response to Comments indicates that this is true, but that the City was not required to somehow disclose the true development under existing zoning because “alternatives need not be analyzed at the same level of detail as the proposed project.” This is a misreading of CEQA. While it is true that alternatives analysis does not require the same level of *impact* analysis as the proposed project, the EIR cannot misrepresent or fail to disclose the true impacts of development under existing zoning. The analysis must contain concrete information about each alternative sufficient to allow a fact-based comparison of the alternatives of the project. 14 CCR Section 15126.6(d). No doubt, the applicant will publicly state that it is doing far less than what is permitted under existing zoning in an attempt to make the project look more beneficial than it really is. Unless the actual development potential is disclosed, the risk of public misinformation is increased exponentially. Moreover, this is a failure to proceed in a manner required by law.

The EIR Still Fails to Recognize the Impacts to Polygonum and Spineflower is Significant

Despite added promises of the buffers from Polygonum and Spineflower, it is clear that the buffer of 72 feet is inadequate to protect the species in the long term. The concerns of Randall Morgan, the botanist who discovered Polygonum, are still valid. He is an expert in the

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species and we have attached additional documentation concerning his background and the listing of the species. Moreover, Polygonum and Spineflower are found in the same habitat and found together. In the San Fernando Valley, larger buffers are required. *See* study attached hereto.

The EIR Fails to Identify an Alternative to Removing Trees that Would Reduce Impacts to View Impairment

The EIR fails to identify any alternatives that would protect trees along the Highway 17 corridor which would reduce significant visual impacts. The EIR makes no serious effort to propose mitigations or alternatives that would reduce significant visual impacts caused by tree removal and development. Accordingly, the DEIR fails to comply with CEQA.

The Impacts of Adjacent Development That Utilizes Infrastructure of the Proposed Project Must be Analyzed

Contrary to the City's assertions in response to Comment Q-11, the impacts of adjacent development that will use the Project's infrastructure must be analyzed. The failure to analyze the use of this infrastructure for subsequent development is piecemeal environmental review and violates CEQA as CNPS has repeatedly stated since commenting on the Draft EIR. In *City of Antioch v. City Council* (1986) 187 Cal.App.3d 1325, the court held that an EIR is required even where the precise nature of the future development remains uncertain. There, a developer proposed to construct a road, a sewer system, a culvert, a storm drain system, a water distribution system, and underground utility lines through a large undeveloped area that abutted the City of Antioch. (*Id.* at 1328-1329.) The Court held that an EIR should have been prepared because the proposed activities should have been analyzed in the context of the future development that was made possible by those activities. Similarly, the proposed project here must include analysis of any off-site development that will be assisted, accessed, made easier, or enabled by the infrastructure and access provided by the proposed project.

Finally, pursuant to Public Resources Code Section 21167(f), I am requesting that the City forward a Notice of Determination. That section provides:

“If a person has made a written request to the public agency for a copy of the notice specified in Section 21108 or 21152 prior to the date on which the agency approves or determines to carry out the project, then not later than five days from the date of the

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agency's action, the public agency shall deposit a written copy of the notice addressed to that person in the United States mail, first class postage prepaid.”

Thank you for your consideration of these comments.

Very truly yours,

WITTWER & PARKIN, LLP

A handwritten signature in black ink, appearing to read 'W.P. Parkin', written over a horizontal line.

William P. Parkin

Encl: Conservation Biology Institute, 2000, *Review of Potential Edge Effects on the San Fernando Valley Spineflower*
Memorandum from Mary Ann Showers to Serge Glushkoff
Polygonum Fact Sheet
Mid County Post, March 20, 2007
Elkhorn Native Plant Nursery (bio of Randall Morgan)
Calfora: *Polygonum hickmanii*
Evaluation of Petition: Request by Dr. Grey Hayes
Cal Fish and Game Commission, Notice of Findings, June 24, 2003
67 Federal Register 70199
68 Federal Register 16970
66 Federal Register 10469