



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Planning and
Development
Department No.: 053
For Agenda Of: February 2, 2016
Placement: Set hearing on 2/2/16
for 2/16/16
Estimated Tme: 1.5 hours on 2/16/16
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Glenn Russell, Ph.D., Director, Planning and Development
Director(s) (805) 568-2085
Contact Info: Alice McCurdy, Deputy Director, Development Review Division
(805) 568-2518
SUBJECT: Set a hearing to Consider Applicant Appeal of the Montecito Planning
Commission's action to require a Focused Environmental Impact Report for the
Casa Dorinda Master Plan CUP Revision Project, First Supervisorial District

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence: N/A

Recommended Actions:

On February 2, 2016, set a hearing for February 16, 2016, to consider the appeal, case no. 15APL-00000-00023, filed by Steve Amerikaner, agent for the Montecito Retirement Association, the applicant, of the Montecito Planning Commission's determination that the Proposed Final Mitigated Negative Declaration prepared for the Casa Dorinda Master Plan CUP Revision, Case Nos. 14RVP-00000-00005, 14CUP-00000-00002, and 15GOV-00000-00004, is inadequate and that a focused EIR to evaluate issues associated with the historic bridge is required. The project site is located at 300 and 352 Hot Springs Road in the Montecito area, 1st Supervisorial District. The applications involve Assessor's Parcel Nos. 009-640-001 and 009-740-057.

On February 16, your Board can take either of the two following options:

Option 1:

- a) Determine that the Mitigated Negative Declaration, case no. 15NGD-00000-00003, is inadequate and that an Environmental Impact Report is required and make the finding (Attachment 7) that there is substantial evidence in the record supporting a fair argument that the project may have a significant effect on the environment;

- b) Deny the appeal, case no. 15APL-00000-00023, thereby affirming the Montecito Planning Commission's action; and
- c) Direct staff to prepare an EIR focused on issues associated with the historic bridge, and to bring the project back to the Montecito Planning Commission for further consideration upon completion of the EIR.

Option 2:

- a) Determine that the Mitigated Negative Declaration, case no. 15NGD-00000-00003, is adequate and that an Environmental Impact Report is not required because the evidence in the record does not support a fair argument that the project may have a significant effect on the environment;
- b) Approve the appeal, case no. 15APL-00000-00023, thereby reversing the Montecito Planning Commission's action; and
- c) Direct staff to bring the project back to the Montecito Planning Commission for full consideration of the project.

Summary Text:

On December 16, 2015, the Montecito Planning Commission reviewed the Casa Dorinda Master Plan CUP Revision project. At that hearing, the MPC (on a 3-2 vote) concluded that the Mitigated Negative Declaration is inadequate and directed staff to prepare a focused EIR on issues associated with the proposed removal of the historic southern bridge across Montecito Creek. The Montecito Planning Commission cited several reasons for this decision, including the comment letter from the Pearl Chase Society, differing conclusions among experts regarding the significance of the bridges and associated creek channel, that the identified mitigation measures are not adequate to reduce impacts to the historic southern bridge to a less than significant level, and the desire for an analysis of alternatives to the demolition and replacement of the historic southern bridge, including potentially removing the northern bridge rather than the southern bridge.

Specifically, the 2014 Cole report's (provided in Attachment 6) conclusion that the mitigation measures in the MND identified to reduce the significant impacts associated with removal of the southern bridge are adequate is based on the premise that the southern bridge is unsafe and must be removed. However, the November 18, 2015 letter from Michael Caccese, licensed Civil Engineer (Attachment 8), states that, while the bridge has been damaged in previous storms, is structurally deficient, and should be replaced, the bridge can support a 20 ton vehicle load including a fire truck and could last another 20 years before failing. Additionally, the Montecito Fire Protection District reported that it can use the northern or the southern bridge for access, while Flood Control reported that it would like removal of both bridges, but that removal of either the northern or southern bridge would improve Flood Control's concerns. Also, when the Historic Landmarks Advisory Commission (HLAC) reviewed the project, the HLAC suggested studying the retention of the southern bridge as a pedestrian bridge (HLAC minutes of April 13, 2015, provided in Attachment F of Attachment 3 to this Board Letter).

Further, the 2014 Cole report concludes that the northern bridge is not a significant historic resource. However, the 2015 Post-Hazeltine report (provided in Attachment 6) concludes that both the northern and southern bridges, along with a portion of the stream channel, constitute a significant historic resource. Also, the Post-Hazeltine report concludes that the mitigation measures identified in the MND to reduce impacts resulting from removal of the southern bridge are adequate primarily because the

northern bridge and the channel would remain, thus ensuring that enough of the contributing elements of the historic resource would remain in order to continue to convey its historical significance.

The letter from the Pearl Chase Society dated March 30, 2015, provided in Attachment 5 to this Board Letter, was originally submitted as a public comment letter on the Draft Mitigated Negative Declaration. The Mitigated Negative Declaration is also provided herein for the Board's consideration (Montecito Planning Commission Staff Report, Attachment C of Attachment 3 to the Board Letter). In order to address the issues raised in the Pearl Chase Society's March 30th letter, a peer review was conducted of the original historic resources report for the project. In response to issues raised in the peer review, additional analysis of the property's historic resources was performed, and the Draft MND was revised to reflect this additional information. While the experts disagreed on the historical significance of the northern bridge and channelized creek segment, they ultimately agreed that the measures identified in the Draft MND would mitigate project impacts from demolition and reconstruction of the southern bridge to a less than significant level, although for different reasons. In regards to an analysis of alternatives to demolition and reconstruction of the historic southern bridge, the Montecito Planning Commission has requested an analysis of alternatives that could retain the southern bridge, while recognizing that neither of the existing bridges meet the Montecito Fire Protection District's access requirements (and therefore improved access is required), and that both bridges constrict water flow during flood events (in conflict with the requirements of the Federal Emergency Management Agency). A copy of the Montecito Planning Commission's action letter is included as Attachment 1 to this Board Letter.

Standard of Review for Mitigated Negative Declaration

As the appeal authority, the Board is guided by CEQA Guidelines section 15064 (f)(1) which states:

“If the lead agency determines there is substantial evidence in the record that the project may have a significant effect on the environment, the lead agency shall prepare an EIR (Friends of B Street v. City of Hayward (1980) 106 Cal. App. 3d 988). Said another way, if a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect (No Oil, Inc. v. City of Los Angeles (1974) 13 Cal. 3d 68).”

The applicant is appealing the Montecito Planning Commission's action based on its contention that there is no justification for requiring preparation of an EIR for the project and that no substantial evidence has been presented to support a fair argument that the project's impacts would be significant after mitigation. A copy of the appeal letter that details the appellant's points is included as Attachment 2 to this Board Letter.

If, based on the criteria in CEQA Guidelines section 15064 (f)(1) presented above, your Board determines that there is a fair argument that the project may have a significant effect on the environment, then staff recommends that your Board take the action presented in option no. 1.

Alternatively, if your Board determines that there is no fair argument that the project may have a significant effect on the environment, then staff recommends that your Board take the action outlined in option no. 2, above.

Background:

The project that is the subject of appeal is a revision to Casa Dorinda's active Conditional Use Permit, in order to update the Casa Dorinda Master Plan. The project proposes a combination of demolition, renovation, and new construction which would:

- increase the net number of independent living units by 19;
- increase the net structural floor area by 93,677 square feet;
- remodel and modernize some facilities;
- re-design the main courtyard;
- relocate and reconfigure maintenance and trash areas; and
- add two sound attenuating walls along portions of the property line.

The existing dedicated open space area would be reconfigured and increased in size to provide a continuous open space easement along the southern portion of the property. Also, the project proposes that the southern historic bridge would be demolished and reconstructed in a new location. Although it currently meets load requirements, the existing bridge is considered structurally deficient, does not meet Flood Control requirements for clearance and thus causes flooding, and does not meet Montecito Fire Protection District requirements for a 20-foot wide access into the site. The new bridge would accommodate two-way traffic to meet Montecito Fire Protection District access requirements and provide greater clearance for flood control purposes, and would include a reconfigured entrance driveway. The historic southern bridge would be photodocumented prior to demolition, in accordance with the Secretary of the Interior's Standards. Additionally, the top stones and sandstone facing of the old bridge would be re-used in the new bridge, which would be designed to resemble the old bridge as closely as possible. After removal of the historic southern bridge, restoration of the riparian habitat in that location would be required. This restored riparian area would be incorporated into the revised and enlarged open space easement. A Draft Mitigated Negative Declaration was prepared to evaluate the impacts of the project and was circulated for public review on February 4, 2015. In order to address the comments raised by area residents on the adequacy of the MND and the impacts of the project, the applicant made changes to the project and the MND was revised accordingly. Project changes included a reduction in the number of net new residential units from 20 to 19, a reduction in the mass of the new living units, and an increase in the net size of the dedicated open space with an updated management and habitat restoration plan. Additional environmental review conducted as part of the revised MND included supplemental biological and historic resource studies. No new impacts were identified and no new mitigation measures were proposed; therefore the revised MND was not re-circulated. The Proposed Final MND analysis concluded that the project would result in significant but mitigable impacts in the following issue areas: Aesthetic/Visual Resources, Air Quality, Biological Resources, Geologic Processes, Historic Resources, Land Use, Noise, Public Facilities, Transportation/Circulation, and Water Resources/Flooding. As a result of the project revisions, all public opposition to the project was withdrawn, with the exception of one individual concerned about and opposed to demolition and reconstruction of the historic bridge (the MND comment letter from the Pearl Chase Society was re-submitted for the MPC hearing by that individual). Based on the analysis in the proposed Final MND, and the project's consistency with applicable policy and ordinance requirements, staff recommended that the Montecito Planning Commission approve the project, subject to the conditions of approval. The

proposed project was considered by the Montecito Planning Commission for a total of approximately 16 hours over three separate hearings on October 21, 2015, December 3, 2015, and December 16, 2015. During these hearings, presentations were made by P&D staff, the applicant, and the applicant's experts in the areas of engineering, biology, and historic resources. Representatives of the County's Flood Control Division, the Transportation Division, the Montecito Fire Protection District, the Montecito Water District, and the Montecito Sanitary District were also present at the hearings to provide input and answer the MPC's questions. Public comments were also received at each hearing.

The Staff Report and Memorandum prepared for the Montecito Planning Commission hearings are included as Attachments 3 and 4 to this Board letter.

Fiscal and Facilities Impacts:

The costs for processing appeals are provided through a fixed appeal fee and funds in P&D's adopted budget. Total costs for processing the appeal are approximately \$3,875.20 (20 hours). The costs are partially offset by the appeal fee of \$648.26. This work is funded in the Planning and Development Permitting Budget Program, as shown on page D-289 of the adopted 2015-2017 FY budget. There are no facilities impacts.

Special Instructions:

The Clerk of the Board shall publish a legal notice at least 10 days prior to the hearing on February 16, 2016. The notice shall appear in the Santa Barbara News Press. The Clerk of the Board shall fulfill noticing requirements. Mailing labels for the mailed noticed are attached. A minute order of the hearing and copy of the notice and proof of publication shall be returned to Planning and Development, attention: David Villalobos.

Attachments:

- Attachment 1: Montecito Planning Commission Action Letter dated December 18, 2015
- Attachment 2: Appeal Letter dated December 18, 2015
- Attachment 3: Montecito Planning Commission Staff Report dated October 1, 2015
- Attachment 4: Montecito Planning Commission Memorandum dated December 3, 2015
- Attachment 5: Public Comment Letters Related to Historic Bridge
- Attachment 6: Historic Resource Reports Related to Historic Bridge
- Attachment 7: Findings for Option 1
- Attachment 8: November 18, 2015 Letter from Mike Caccese

Authored by: Joyce Gerber, 568-3518