



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 &  
Development  
Department No.: 053  
For Agenda Of: May 1, 2012  
Placement: Departmental  
Estimated Tme: 1.5 Hours  
Continued Item: No  
If Yes, date from:  
Vote Required: Majority

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TO: Board of Supervisors

FROM: Department Glenn Russell, Ph.D. 568-2085  
Director(s)  
Contact Info: Alice McCurdy, 568-2518

SUBJECT: **Hearing to Consider Applicant Appeal of the County Planning Commission's  
action to require an Environmental Impact Report for the Park Hill Estates v.2  
Project**

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**County Counsel Concurrence**

As to form: Yes

**Auditor-Controller Concurrence**

As to form: N/A

**Other Concurrence:** N/A

**Recommended Actions:**

Consider the appeal filed by Jeff Nelson, the applicant, on the County Planning Commission's determination that the Draft Mitigated Negative Declaration prepared for the Park Hill Estates v.2 project, Case No. 10TRM-00000-00001, is inadequate and that a focused EIR to evaluate impacts on biological resources and fire protection is required. The project site is located at 4700 Via Los Santos in the Goleta area, 2<sup>nd</sup> Supervisorial District. The applications involve Assessor's Parcel No. 059-290-041.

Your Board's action should include the following:

1. Determine that the Mitigated Negative Declaration is inadequate and that an Environmental Impact Report is required because there is substantial evidence in the record that the project may have a significant effect on the environment and there is a fair argument that a project may have a significant effect on the environment;
2. Deny the appeal, thereby upholding the County Planning Commission's action; and
3. Direct staff to prepare a focused EIR on biological resources and fire protection and bring the project back to the County Planning Commission for further consideration upon completion of the EIR.

**Summary Text:**

On January 25, 2012, the County Planning Commission reviewed the Park Hill Estates v.2 residential subdivision project and concluded that additional environmental review was required before they could take action to approve or deny the project. The County Fire Department testified at the Planning Commission hearing about the inadequacy of the Tucker's Grove access point as an emergency evacuation route, though they did indicate that the project complies with all applicable County Fire Department standards, including access and water supply for fire suppression. In addition, many area residents testified regarding the hazards of emergency evacuation through the neighborhood during the Painted Cave Fire and more recent fires due to the limited options for ingress and egress in this neighborhood. The Planning Commission also heard testimony regarding biological resources present on the project site and the potential inadequate analysis of project impacts on those resources. In response to the public testimony, the Planning Commission concluded that the Mitigated Negative Declaration was inadequate and directed staff to prepare a focused EIR on fire protection and biological resources. A copy of the 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).”

Staff offers that the comment letters provided in Attachments 3 and 4 provide substantial evidence to support a fair argument that the project may have a significant effect on the environment and a focused EIR should be prepared. The Mitigated Negative Declaration is provided for the Board's consideration on this issue (County Planning Commission Staff Report, Attachment C of Attachment 3 to the Board Letter).

The applicant is appealing the County Planning Commission's action based on his contention that there is no justification for requiring preparation of an EIR for the project. A copy of the appeal letter that details the appellant's points is included as Attachment 2 to this Board letter.

**Background:**

The project consists of subdivision of a 14.87-acre property zoned 1-E-1 into 16 residential lots, one common open space lot for a detention basin, and one lot covering an existing private road. A Draft Mitigated Negative Declaration was prepared to evaluate the impacts of the project, including the future buildout of each residential lot, and circulated for public review on June 17, 2011. In order to address the comments raised by area residents on the adequacy of the MND and impacts of the project, the applicant made several changes to the project. These include an elimination of two residential lots (from 18 to 16) and a resultant increase in average lot sizes, a reduction in the maximum building heights for

the two westernmost lots down to 22 feet, and an increase in the setbacks in between residences to a minimum of 40 feet. The Proposed Final MND analysis concluded that the project would result in significant but mitigable impacts in the following issue areas: Aesthetics, Air Quality, Biological Resources, Cultural Resources, Fire Protection, Geologic Processes, Land Use, Noise, Public Facilities, Transportation, and Water Resources. The staff report prepared for the Planning Commission hearing is included as Attachment 3 to this Board letter.

**Fiscal and Facilities Impacts:**

The costs for processing appeals are partially offset through payment of a fixed appeal fee of \$643 (\$500 of which covers P&D costs). The total estimated cost to process this appeal is approximately \$3,690. These funds are budgeted in the Permitting and Compliance Program of the Development Review South Division, as shown on page D-314 of the adopted 2011/2012 fiscal year 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 May 1, 2012. The notice shall appear in the Santa Barbara Daily Sound. 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: County Planning Commission Action Letter
- Attachment 2: Appeal Letter dated February 6, 2012
- Attachment 3: County Planning Commission Staff Report, dated November 18, 2011
- Attachment 4: Public Comments Letters to the Planning Commission

**Authored by:** Alex Tuttle, 884-6844