



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: 2/13/07  
Placement: Set Hearing  
Estimated Tme: 1 hours 30 minutes on  
2/27/07  
Continued Item: No  
If Yes, date from:  
Vote Required: Majority

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**TO:** Board of Supervisors  
**FROM:** Department John Baker, Director , 568-2085  
Director(s)  
Contact Info: Zoraida Abresch, Deputy Director, 934-6585  
**SUBJECT: Set Hearing for Brady Appeal of the Planning Commission's Approval of 06LUP-00000-000585, Halsell SFD Addition and Grading**

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**County Counsel Concurrence**

As to form: N/A

**Other Concurrence:** N/A

As to form: No

**Recommended Actions:**

That the Board of Supervisors set a February 27, 2007 hearing to consider the Brady Appeal of the Planning Commission's approval of 06LUP-00000-00585 (06APL-00000-00052), Fourth Supervisorial District.

At the February 27, 2007 hearing, the Board of Supervisors action should include the following:

1. Adopt the required findings for the project specified in the Planning Commission's action letter dated December 13, 2006 including CEQA findings (Attachment B);
2. Deny the appeal and uphold the Planning Commission's December 13, 2006 approval of 06LUP-00000-00585; and,
4. Grant *de novo* approval of Case No. 06LUP-00000-00585.

**Auditor-Controller Concurrence**

As to form: N/A

**Summary Text:**

**A. Proposed Project**

On August 9, 2006, a Land Use Permit was granted for a new 3,592 square foot single family dwelling and new 971 square foot detached garage at 1374 Solomon Road (05LUP-00000-00229). Pursuant to a condition of approval imposed when the subdivision map that created the subject parcel (Parcel 1 of 14,566), the project included provision to ensure that increased impervious surfaces would not result in an increase in runoff from the site. A swale surrounding proposed improvements would capture runoff and convey the runoff to drywells. This approval was not appealed and construction was soon under way on this 1.02-acre parcel in the 1-E-1 Zone District.

During construction of the approved single family residence and garage, the owners decided to apply for permits to construct a larger residence and establish a residential care facility for 14 or fewer residents. As explained in greater detail below and in the Planning Commission staff report (Attachment C), this is a use that is allowable with a Land Use Permit in this district subject to certain standards.

On August 29, 2006, a Land Use Permit was approved for an addition that would accommodate the care facility (06LUP-00000-00585). As originally approved, the addition would include two, 1,200 square foot single story wings; a 268 square foot two-story addition (hallway and elevator); and conversion of 1,759 square feet of existing attic space to living space; and, a parking lot for 14 additional paved parking spaces. This Land Use Permit was appealed by the Bradys and by the Westrails Homeowners Association (06APL-00000-00036 and 06APL-00000-00035, respectively).

Prior to the Planning Commission's consideration of the appeal on December 13, 2006, the owner revised plans in response to concerns expressed in the appeals. The original plans to convert attic space and add a second story addition were dropped. In addition, they decided not to include exterior lighting in the parking lot, not to pave the parking lot, and to add a larger detention basin in the southwest portion of the site to ensure that the additional impervious surfaces could not result in an increase in runoff from the site. The revised project still includes the addition of two single-story wings onto the building, one of 1,763 square feet and one of 1,714 square feet, but no longer includes a two-story component. The total number of bedrooms and bathrooms (14 each after the completion of the addition) would remain the same. The proposed total development would be 7,940 square feet.

**B. Planning Commission Action**

On December 13, 2006, the Planning Commission considered the Westrails Homeowner's Association and Brady appeals and voted 5-0 on a motion to deny the appeal and approve the project as revised at the hearing (Attachment B). The primary issues for the Westrails HOA were conversion of the second floor to living space with windows overlooking the Westrails Estates subdivision and parking lot lighting. These concerns were largely addressed by modifications proposed by the applicant prior to the appeal hearing. The Bradys, however, were still dissatisfied about potential flooding, about neighborhood compatibility based on the size of the proposed building, and possible impacts to the neighborhood resulting from the planned use of the property as a Special Care Home for Alzheimer's patients.

**C. Staff Response to Appeal Letter**

The attached appeal application dated December 22, 2006 (Attachment A) lists the reasons for current appeal, as follows:

- A. The appellants feel they were denied due process.
- B. The appellants still feel the issues previously submitted to the Planning Commission are valid.
- C. The appellants believe zoning regulations relative to group homes conflict with State codes.
- D. The appellants believe the group home would be a commercial facility that should not be allowed in a residential neighborhood.

**Issue A** -- The appellants are dissatisfied that the project was not required to undergo environmental review pursuant to the California Environmental Quality Act (CEQA) and that public hearings were not required prior to approval of the project. However, the proposed uses are allowable through the issuance of a Land Use Permit if applicable standards are met and, as such, required permits are ministerial in nature. Ministerial permits are exempt from the requirements of CEQA and do not require a hearing unless an appeal is filed.

**Issue B** – Issues raised in the original appeal to the Planning Commission are discussed in the Planning Commission staff report. Main points are summarized as follows:

- Neighborhood incompatibility. The appellants feel that the size of the post-addition residence is incompatible with surrounding development. Staff and the Planning Commission felt that this issue was addressed because (a) the architecture of the structure is not unlike that of surrounding buildings; (b) the large size of the lot (1.02 acres) affords room for a larger buildings and provides for approximately 300 feet between the proposed home and neighboring homes; and, (c) the applicant eliminated the proposed second story, the proposed paved parking lot and the proposed exterior lighting.
- The Proposed Use. The appellant feels the intended use of the post-addition structure as a special care home for the elderly is not compatible with the neighborhood and is a commercial use that should not be allowed in a residential neighborhood. The proposed use is listed as an allowable use in the 1-E-1 district, provided that certain standards are met. The Land Use Development Code specifies that Special Care Homes serving 14 or fewer residents are permitted through the Land Use Permit process and are ministerial. Furthermore, the Code requires that Special Care Homes be considered a residential use and that the occupants be considered a family (see response to Issue D below).
- Environmental Review. Traffic hazards, flooding, increased noise, etcetera, should have been subject to environmental review. As discussed above, the requested permits are ministerial and there are no sensitive resources affected by the project. Ministerial permits are statutorily exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15268 of the State CEQA Guidelines.

- **Piecemealing.** The appellants feel that the issuance of separate Land Use Permits (LUPs) for the house and the addition constitute piecemealing intended to deprive the neighbors of project input. There was no knowledge of a proposed group home when permits for the single family residence were originally issued. Regardless, the noticing and permitting process would have been the same with or without the addition. No separate Land Use Permit or notice to neighbors is required for a special care home.
- **Lighting.** The original appeal objected to exterior light standards within the proposed parking lot. Revised plans for the addition do not include freestanding light fixtures with the parking lot. Rather, the revised plans show light fixtures mounted on the building that are shielded and directed downward. Thus, it appears this issue has also been addressed.

**Issue C** – The appellants state that the County Ordinance conflicts with State law. The County zoning regulations do not conflict with the State law. State law exempts Special Care Homes with six (6) or fewer residents from any local permitting requirements. The County treats Special Care Homes with 14 or fewer residents as a permitted use subject to a Land Use Permit as long as parking and other standards are met. The Special Care Home currently under consideration meets all such standards.

**Issue D** – The appellants feel the proposed use is commercial in nature and should not be allowed in a residential neighborhood. This is addressed by Section 35.42.100.D of the Land Use and Development Code, as follows:

***“Special Care Homes***

1. ***Serving 14 or fewer.*** *Special Care Homes that serve 14 or fewer persons shall comply with the following standards:*
  - a. *A single kitchen*
  - b. *Off-street parking shall be provided in compliance with Chapter 35.36 (Parking and Loading Standards).*
  - c. *Structural installations necessary to accommodate disabled residents (e.g. ramps, lifts, handrails) in compliance with the Fair Housing Act, shall be allowed without having to obtain a Variance or Modification if otherwise required.*
  - d. *The application and the requirements of this Development Code shall be waived by the Director, if necessary, to comply with the Federal and/or State Fair Housing and Disability Laws relating to accommodation for persons with disabilities.*

- e. *The review of special care homes in compliance with this Section shall be a ministerial action exempt from the requirements of the California Environmental Quality Act, unless the approval is subject to approval of a Coastal Development Permit within a Geographic Appeals Area within the Coastal Zone.*
  
- 2. **Defined as a Residential use.**
  - a. *A special care home that serves 14 or fewer persons shall be considered a residential use and the residence and operators of the facility shall be considered a family, in compliance with Health and Safety Code Section 1566.3.”*

**D. Facilitation Meeting with County Counsel between Appellant and Applicants**

A facilitation meeting between the Appellant and Applicants is in the process of being scheduled and the results will be described in an agenda letter docketed to your Board prior to the February 27, 2007 hearing. The purpose of the meeting is to clarify issues pertaining to the appeal, to identify possible solutions, and to notify parties in dispute of available mediation services which may assist in resolving disagreements.

**Performance Measure:**

N/A

**Fiscal and Facilities Impacts:** Budgeted: Yes

**Fiscal Analysis:**

Narrative: The fee for processing an appeal is \$443 per the current Planning and Development Department fee schedule adopted by the Board of Supervisors, effective January 15, 2007. The remaining cost of processing this appeal is budgeted in the Permitting and Compliance program of the Development Review North Division on Page D-294 of the Fiscal Year 2006/2007 adopted budget. Estimated staff time to process this appeal is approximately 20 hours, for a projected cost of \$2,580.00.

**Staffing Impacts:**

**Legal Positions:**  
N/A

**FTEs:**  
N/A

**Special Instructions:**

The Clerk of the Board shall complete noticing in the Santa Barbara News Press and the Santa Maria Times and shall complete the mailed noticing for the project at least 10 days prior to the February 27, 2007 hearing (mailing labels attached). The Clerk of the Board shall return a minute order of the hearing and copy of the notice and proof of publication to Planning and Development, attention Cintia Mendoza, Hearing Support. Planning & Development will prepare all final action letters and notify all interested parties of the Board of Supervisors’ final action.

**Attachments:**

Attachment A: Applicant Appeal  
Attachment B: Planning Commission Action Letter  
Attachment C: Planning Commission Staff Report  
Attachment D: Public Comment Letters from Planning Commission Hearing

**Authored by:** Joyce Gerber, Planner II, 934-6265

**cc:** File (06APL-00000-00052)