



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: July 15, 2008
Placement: Departmental
Estimated Tme: 1 Hour, 30 Minutes
Continued Item: Yes
If Yes, date from: June 19, 2007
Vote Required: Majority

TO: Board of Supervisors

FROM: Department John Baker, Director
Director(s) Planning and Development Department
Contact Info: Dave Ward, Deputy Director
Planning and Development Department
(805) 568-2520

SUBJECT: **Hearing on the Gaviota Coast Conservancy's Appeal of the Planning Commission's Approval of the Ballantyne Residence and Accessory Structures (Case Numbers 06APL-00000-00019, 05LUP-00000-00611, and 08CDP-00000-00006)**

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence:

As to form: N/A

Recommended Actions:

Your Board's motion should include one of the following:

Option 1 – Deny the Appeal, Approve the Project

1. Deny the appeal (Case Number 06APL-00000-00045) and uphold the Planning Commission's November 8, 2006 decision to approve the project (Case Number 06APL-00000-00019).
2. Adopt the Proposed Final Mitigated Negative Declaration (Environmental Document 08NGD-00000-00014), including any revisions as specified by your Board. [Attachment A of this Board Letter is the Proposed Final Mitigated Negative Declaration.]

Or

Alternatively, refer the environmental document back to staff for additional analysis pursuant to the Guidelines for Implementation of the California Environmental Quality Act.

3. If your Board adopts the Proposed Final Mitigated Negative Declaration, then also select one of the following:
 - A. Adopt the required findings and conditions of approval to approve the project (Case Number 05LUP-00000-00611), revised to include water and gas lines (Case Number 08CDP-00000-00006), as approved by the Planning Commission and as specified in Attachment A (Findings of Approval) and Attachment B (Conditions of Approval) of the November 13, 2006 Planning Commission Action Letter, and also incorporate mitigation for fire protection and noise according to the Proposed Final Mitigated Negative Declaration. [Attachment B of this Board Letter is the November 13, 2006 Planning Commission Action Letter.]

Or

 - B. Adopt the required findings and conditions of approval to conditionally approve the project (Case Number 05LUP-00000-00611), revised to include water and gas lines (Case Number 08CDP-00000-00006), subject to any new revisions to the project description or conditions of approval as approved by the Planning Commission and as specified in Attachment A (Findings of Approval) and Attachment B (Conditions of Approval) of the November 13, 2006 Planning Commission Action Letter, including any specific modifications to the siting, design, scale and/or other aspects of the project as specified by your Board, and also incorporate mitigation for fire protection and noise according to the Proposed Final Mitigated Negative Declaration. [Attachment B of this Board Letter is the November 13, 2006 Planning Commission Action Letter.]

Option 2 – Approve the Appeal, Deny the Project

1. Grant the appeal (Case Number 06APL-00000-00045) and reverse the Planning Commission's November 8, 2006 decision to approve the project (Case Number 06APL-00000-00019).
2. Adopt the required findings to deny the project (Case Numbers 05LUP-00000-00611), revised to include water and gas lines (Case Number 08CDP-00000-00006), as specified in Attachment A (Denial Findings) of the September 15, 2006 Planning Commission Staff Report. [Attachment C of this Board Letter is the Denial Findings.]

Summary Text:

On June 19, 2007, your Board held a hearing on the Gaviota Coast Conservancy's appeal of the Planning Commission's decision to approve the project and took the following action:

Supervisor Firestone moved, seconded by Supervisor Gray and carried by a vote of 3-2 (Supervisors Carbajal and Wolf no) to:

1. Direct the Planning and Development Department staff to apply the requirements of the California Environmental Quality Act (CEQA) to the project; and
2. Prepare the required environmental documents in an expeditious manner and to return to the Board as appropriate.

Staff completed a scope of work and contracts for preparing the required environmental documents on August 9, 2007. Rincon Consultants was selected to prepare the environmental documents. The applicant agreed to fund a final contract for preparing the environmental documents on March 13, 2008. In April 2008, Rincon Consultants submitted and the Planning and Development Department (P&D) circulated for public comment the Draft Mitigated Negative Declaration. In June 2008, Rincon Consultants submitted the Proposed Final Mitigated Negative Declaration (Attachment A of this Board Letter). The consultant's analysis assumed that all conditions of approval applied by the Planning Commission would apply to the project. Except for fire protection and noise, the Proposed Final Mitigated Negative Declaration states the project would either have no impacts or less than significant impacts on aesthetics, land use and other environmental resource areas. It concludes that the project's impacts on fire protection and noise would be potentially significant unless the mitigation measures specified in the document are incorporated into the project.

The project is located within the County's Inland Area and is subject to the Land Use and Development Code (LUDC), except portions of the proposed water and gas lines which are located within the Coastal Zone and are subject to the Coastal Zoning Ordinance (Article II). The hearing on this appeal is *de novo* (LUDC 35.102.050.C, Article II 35-182.5.C). The Board may affirm, reverse or modify the Planning Commission's approval of the project (LUDC 35.102.050.D, Article II 35-182.5.D).

Background:

P&D's May 22, 2007 Board Agenda Letter (Attachment D) and the enclosed summary timeline (Attachment E) describe the background of this project. In summary, the applicant applied for a Land Use Permit for a residence and accessory structures on a 17-acre parcel located at 500 Farren Road, Goleta Area (Case Number 05LUP-00000-00611). The project includes an 11,535 square-foot residence with a 1,798 square-foot garage (13,333 square feet), 800 square-foot guesthouse with a 568 square-foot garage (1,368 square feet) and 1,200 square-foot barn. The applicant revised the project to include an approximately 600-foot long berm to screen the residence from Highway 101 after P&D denied the project and before the Planning Commission considered the applicant's appeal of that decision. Grading estimates total 8,900 cubic yards of cut and 8,100 cubic yards of fill. The applicant revised the project again to include two unpermitted 5,000 gallon water tanks and water and gas lines after the Planning Commission approved the project. Portions of the water and gas lines are located within the Coastal Zone and, therefore, require a Coastal Development Permit (Case Number 08CDP-00000-00006).

P&D denied the Land use Permit based on findings that the project, including the berm, did not comply with the applicable visual resources and hillside and watershed protection provisions in the Comprehensive Plan, Goleta Community Plan and Zoning Ordinance.¹ The concerns presented in P&D's September 15, 2006 Planning Commission Staff Report summarize the basis of the denial (Attachment D includes P&D's September 15, 2006 Planning Commission Staff Report). The applicant appealed P&D's decision (Case No. 06APL-00000-00019). On November 8, 2006, the Planning

¹ P&D and the Planning Commission reviewed the project based on the Inland Zoning Ordinance. After the Planning Commission's hearing, the Inland Zoning Ordinance was replaced by the Land Use and Development Code. The applicant also revised the project to include water and gas lines partially located in the Coastal Zone. With two exceptions, your Board will need to base its decision on the Land Use and Development Code. The exception is the portions of the water and gas lines located in the Coastal Zone. Your decision on these lines needs to be based on the Coastal Zoning Ordinance. The visual resources provisions in the Inland Zoning Ordinance (Section 35-212.1) are identical to those in the Land Use and Development Code (Section 35.30.060.A).

Commission voted three to two to grant the applicant's appeal and approve the project. As part of that decision, the Planning Commission modified the project and imposed conditions of approval to help mitigate the visual impacts of the project. The Planning Commission's action included acceptance of a statutory exemption from CEQA.

The Gaviota Coast Conservancy appealed the Planning Commission's approval of the project (Case Number 06APL-00000-00045). The appeal states that the project is inconsistent with the applicable visual resources and grading provisions and asserts that the project involved discretionary actions and, therefore, is not exempt from CEQA (Attachment D includes the Gaviota Coast Conservancy's appeal).

During a hearing on June 19, 2007, your Board decided that the project was subject to the requirements of CEQA. It continued the hearing in order to complete the environmental review process, including preparing the necessary environmental documents and otherwise complying with CEQA. Rincon Consultants was selected to prepare the environmental documents. It submitted a Draft Mitigated Negative Declaration on April 23, 2008. P&D circulated that environmental document for public comment between April 29, 2008 and May 29, 2008. We received 19 written comments. (These comments and the Draft Mitigated Negative Declaration are on file with the Clerk of the Board.) On June 27, 2008, Rincon Consultants submitted the Proposed Final Mitigated Negative Declaration (Attachment A). This environmental document is presented for your review and decision.

Fiscal and Facilities Impacts:

Budgeted: Yes

Fiscal Analysis:

The appellant's cost of appealing the Planning Commission's decision to the Board of Supervisors was a fixed fee of \$443.00 (County of Santa Barbara Land Development Fee, January 15, 2007). The remaining cost of processing the appeal is budgeted in the Permitting and Compliance Program of the Development Review Division - South on page D-301 of the County of Santa Barbara Fiscal Year 2008 – 2009 Proposed Budget. The estimate staff time to process the appeal is approximately 140 hours.

Staffing Impacts:

Legal Positions:

N/A

FTEs:

N/A

Attachments:

- A. Proposed Final Mitigated Negative Declaration, Ballantyne Single-Family Residence, Accessory Structures, and Water Line, Environmental Document 08NGD-00000-00014 (Rincon Consultants, Inc., June 2008)
- B. Approval Findings and Conditions, November 8, 2006 Planning Commission Action Letter, Ballantyne Appeal, 06APL-00000-00019 (November 13, 2006)
- C. Denial Findings, September 15, 2006 Planning Commission Staff Report, Appeal of Land Use Permit for Ballantyne Residence and Accessory Structures

D. May 22, 2007 Board of Supervisors Agenda Letter with Attachments

E: Summary Timeline, Ballantyne Single-Family Residence and Accessory Structures

Authored by:

Allen Bell, Senior Planner
Development Review Division

cc: Case File (Allen Bell)
Michael Brown, CEO
Michael Ghizzoni, Chief Deputy, County Counsel
Dianne Black, Director of Development Services, P&D
Dave Ward, Deputy Director, Development Review Division, P&D
June Pujo, Supervising Planner, Development Review Division, P&D

ATTACHMENT A

**Proposed Final Mitigated Negative Declaration
Ballantyne Single-Family Residence, Accessory Structures, and Water Line
Environmental Document 08NGD-00000-00014**

ATTACHMENT B

**Approval Findings and Conditions
November 8, 2006 Planning Commission Action Letter
Ballantyne Appeal, 06APL-00000-00019**

ATTACHMENT C

Denial Findings September 15, 2006 Planning Commission Staff Report Appeal of Land Use Permit for Ballantyne Residence and Accessory Structures

A Land Use Permit shall only be issued only if the decision-maker can make all three findings in Section 35-314.5 of the Inland Zoning Ordinance (Article III). The first finding cannot be made for the proposed project:

- 1. That the proposed development conforms to the applicable policies of 1) the Comprehensive Plan and 2) with the applicable provisions of this Article and/or falls within the limited exception allowed under Section 35-306.7.**

As discussed in Sections 6.2, 6.3 and 6.5 of this staff report, the proposed project does not conform to Visual Resources Policy 2 in the Comprehensive Plan (Land Use Element), Visual Resources Development Standard 1 in Article III (Section 35-212.1) and Policy LU-GV-5 in the Goleta Community Plan (Land Use, Community Development). Therefore, this finding cannot be made.

The residence would be sited on a ridge that is highly visible in the foreground as seen from public viewing places. It would be a large structure and would appear as a long, linear mass on the horizon. The residence employs a contemporary design that would result in a prominent commercial/institutional-appearing structure. The residence's large size, smooth exterior textures, light exterior colors and reflective glass and other materials would accentuate its visibility. Based on these and other related factors, the residence would not be compatible with the character of the surrounding natural environment or subordinate in appearance to natural landforms. Additionally, the residence would intrude into the skyline as seen from public viewing places, including Highway 101, Farren Road and Calle Real.

ATTACHMENT D

May 22, 2007 Board of Supervisors Agenda Letter with Attachments

ATTACHMENT E

Summary Timeline Ballantyne Single-Family Residence and Accessory Structures

May 18, 2005	Applicant submitted permit application
June 14, 2006	P&D denied project
June 23, 2006	Applicant filed appeal
November 13, 2006	Planning Commission approved project with conditions
November 20, 2006	Gaviota Coast Conservancy filed appeal
<hr/>	
June 19, 2007	Board hearing; Board directed staff to apply CEQA and return for final decision
August 9, 2007	Staff finalized contracts for consultants to prepare CEQA documents
<hr/>	
March 13, 2008	Applicant agreed to fund revised contract to prepare CEQA documents. Consultant (Rincon Consultants) began work.
June 26, 2008	Consultant submitted Proposed Final Mitigated Negative Declaration
July 15, 2008	Board hearing