



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: June 1, 2010
Placement: Departmental
Estimated Tme: 1 hour 45 minutes
Continued Item: Yes
If Yes, date from: May 18, 2010
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Glenn Russell, Ph.D., Director 568-2085
Director(s) Planning and Development

Contact Info: Dave Ward, Deputy Director 568-2520
Development Review Division, South County

SUBJECT: Appeals of the Santa Barbara Botanic Garden Vital Mission Plan

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence: N/A

Recommended Actions:

1. Consider the appeals filed by Frank Arredondo and the Friends of Xana'yan (09APL-00000-00029), Mission Canyon Association (09APL-00000-00030), and the Friends of Mission Canyon (09APL-00000-00031) of the Planning Commission's October 26, 2009 approval of the Santa Barbara Botanic Garden's Vital Mission Plan project, located at 1212 Mission Canyon Road in the Mission Canyon area, First Supervisorial District and take the following action:
 - a. Deny the three Planning Commission Appeals, 09APL-00000-00029, 09APL-00000-00030, and 09APL-00000-00031, thereby upholding the County Planning Commission's approval of 72-CP-116 RV01 and 99-DP-043 (the Vital Mission Plan) as revised herein;
 - b. Make the required findings for approval of Case Nos. 72-CP-116 RV01 and 99-DP-043 (the Vital Mission Plan) included as Attachment 1, including CEQA findings;
 - c. Certify the Final Environmental Impact Report, 07EIR-00000-00001, including the FEIR Revision Letter (RV1) (Attachment 3), and adopt the mitigation monitoring program contained in the conditions of approval; and

- d. Grant *de novo* approval of Case Nos. 72-CP-116 RV01 and 99-DP-043 (the Vital Mission Plan), subject to the revised conditions of approval included as Attachment 4.
2. Consider the appeal filed by the Santa Barbara Botanic Garden (09APL-00000-00041) of the Historic Landmarks Advisory Commission's November 9, 2009 action regarding the Botanic Garden's Vital Mission Plan project and take the following action:
 - a. Deny the appeal by the Santa Barbara Botanic Garden (09APL-00000-00041);
 - b. Make the findings pursuant to Resolution 2003-059 included as Attachment 2;
 - c. Uphold the Historic Landmarks Advisory Commission's action subject to the following modifications: 1) do not require review and approval of a restoration plan for the Meadow Terrace area by the HLAC, 2) do not require review and approval of the paving and hardscape plan by the HLAC, and 3) limit the HLAC's review of the Cultural Landscape Master Plan to the portion located within Landmark #24; and
 - d. Accept the previously certified Final Environmental Impact Report, 07EIR-00000-00001, for the Santa Barbara Botanic Garden's 72-CP-116 RV01 and 99-DP-043 (the Vital Mission Plan), the adoption of the mitigation monitoring program, and the findings included as Attachment 1 as adequate for CEQA for this action.

Summary Text:

At the hearing on May 18, 2010, your Board directed P&D staff to revise and update draft conditions to support approval of the Botanic Garden's Vital Mission Plan based on the input received by your Board during the course of the hearing. The EIR identified mitigation measures that adequately reduce impacts resulting from the proposed project to less than significant levels. These mitigation measures have been incorporated as conditions of project approval. The revisions to the mitigation measures and conditions of approval are not indicative of a determination of inadequate mitigation measures or inaccurate conclusions of the EIR. The adequacy of the mitigation measures in reducing impacts to less than significant levels and conclusions of the EIR are unaffected by the proposed revisions. Rather, the changes to the mitigation measures and conditions of approval are proposed to address concerns raised by the Board of Supervisors, appellants, and members of the public. The proposed revisions are responsive to these concerns while still meeting the objectives of the applicant. The revised mitigation measures are more restrictive and do not result in any new significant impacts.

The purpose of this memorandum is to present the updated conditions of approval based on your Board's direction and provide a comparison and discussion of the changes as they relate to the existing conditions incorporated into the Planning Commission's approval of the project. Attachment A of the EIR Revision Letter (included as Attachment 3 to this Board Letter and hereby incorporated by reference) provides a side-by-side comparison of the proposed changes to the project description and conditions of approval based on your Board's direction, and a discussion of how these changes implicate the adequacy of the mitigation measures or conclusions for the EIR as applicable. At the May 18, 2010 hearing, your Board provided the following direction in updating the conditions of approval:

1. Cap of 200 people at any one time between May 1 and November 30, including staff and volunteers; specify a method to monitor the cap

2. Cap of 250 people at any one time between December 1 and April 30, including staff and volunteers; specify a method to monitor the cap
3. Eliminate 1.8% growth rate
4. Cap visitation at 110,000 per year
5. No more than 17 events per year, 1 per month between May and November and 2 per month between December and April
6. Cap annual event attendance at 1,983
7. Events to end by sunset, with guests/workers off-site within one hour
8. No changes to class limitations
9. Prohibit amplified music; limit amplification to spoken word and 65 dB at the property lines
10. Incorporate finding similar to Music Academy of the West regarding neighborhood compatibility and site capacity
11. Eliminate new staff residences on Hansen Site
12. Relocate Caretaker's Cottage to site of Director's residence to replace the residence lost in the Jesusita Fire
13. Replace existing fencing with 3 ½ foot fence design
14. Eliminate 10% allowance for additional paving, limit new paving to necessary ADA and Fire Department access to and around buildings
15. No follow up LUP or ZCI issued without consistency with Mission Canyon Community Plan
16. Define high fire season as May 1 through Nov. 30
17. Require closure if Remote Access Weather Station (RAWS) triggers red flag conditions
18. Give discretion to Fire Chief to close Garden outside of red flag conditions
19. Require safety officer on-site during red flag watch
20. Require rental contracts to disclose criteria for closure of Garden and cancellation of events
21. Require the Garden to post a closure sign near Station #15 to notify potential visitors of Garden closures
22. Require the Garden to send an email blast to the Visitor's bureau and area hotels notifying them of Garden closures
23. Limit buses to no longer than 31 feet, except for school buses utilized for school field trips
24. Limit location of off-site parking for shuttling to Garden Street or south
25. Require at least one unannounced fire drill each year
26. Require additional shovel test pits in the area of the Hansen site road and utility trenches prior to construction
27. Require a Native American monitor for all ground disturbance throughout the entire site
28. Require HLAC oversight over the Cultural Landscape Master Plan within the boundaries of County Landmark #24
29. Require that water and sewer line extensions and other infrastructure improvements be completed and tested for adequacy prior to construction of Phase I development
30. Require a rest period of one year or half the length of construction of Phase I, whichever is longer, between Phases I and II
31. Require that a public meeting be held by P&D to receive comments and input on applicable plans deriving from conditions of approval prior to approval
32. Limit temporary exhibits to no more than 2 years
33. Remove the Meadow Terrace

In regards to Item #18 in the above list, giving the Fire Chief discretion to close the Botanic Garden outside of "Red Flag Warning" conditions -- such as high winds less than a "Red Flag Warning" -- the Fire Department already has this authority under the County Fire Code. Therefore, no further changes to the conditions of approval are necessary to address this issue.

Historic Landmarks Advisory Commission and Landmark #24

As discussed in the Board Letter on the Botanic Garden's appeal of the HLAC's action on the Vital Mission Plan for the April 20, 2010 Board hearing, the Landmark Resolution 2003-059 grants certain authority to the HLAC in reviewing and approving certain projects that may affect the Landmark. The Resolution and Chapter 18A of the County Code establish the standards for evaluating these projects to determine if they are consistent with the terms of the Resolution. The criteria and standards for evaluating a project under the Landmark Resolution are different than those considered in a CEQA analysis. The Board of Supervisors relies on these standards and criteria in reviewing the HLAC's action on the Vital Mission Plan and merits of the appeal filed by the Botanic Garden. Nevertheless, an EIR has been prepared to evaluate impacts of the project on various resources, including historic resources. The EIR includes an historic resources evaluation that examines the historic resources present in the Garden, including its historic designed landscape, and evaluates the impacts of the Vital Mission Plan on those resources. The EIR concludes that impacts are significant but mitigable and identifies mitigation measures that would reduce impacts to less than significant levels. In taking action on the project and making the required findings as they relate to authority under the Landmark Resolution, the Board of Supervisors considered the analysis and conclusions of the EIR.

The Board of Supervisors is modifying the action by the HLAC on the Vital Mission Plan project as follows:

- Not requiring that a restoration plan for the Meadow Terrace area be prepared for review and approval by the HLAC before restoration is commenced;
- Not requiring that a paving and hardscape plan be reviewed and approved by HLAC prior to construction; and
- Limiting the HLAC's review authority of the Cultural Landscape Master Plan to the portions of the plan within the boundaries of the County Landmark #24.

The draft revised conditions of approval are included in Attachment 4 to this Board letter and incorporate the modifications addressing the three PC appeals and the HLAC appeal. In addition, minor clarifications were made to several conditions as cleanup items and to reflect the fact that the Botanic Garden is an ongoing operation (see Conditions 73, 77, and 105). Condition #105 clarifies that zoning clearance for operational conditions must be obtained by January 1, 2011. Structural development authorized under the CUP and Development Plan requires follow up permits within the time limits specified in the permit conditions before it becomes effectuated. All revisions to the conditions of approval since the last hearing are indicated in strikethrough and underline.

Fiscal and Facilities Impacts:

Budgeted: Yes **Fiscal Analysis:**

The costs for processing appeals are partially offset through payment of a fixed appeal fee of \$643 (\$500 of which covers P&D costs). Three separate appeals of the Planning Commission's approval were filed for this project, for a total cost of \$1,929. There is no individual fee established for processing an appeal of a decision by the Historic Landmarks Advisory Commission. The total estimated time to process these four appeals is approximately 200 staff hours, which equates to approximately \$36,400. These

funds are budgeted in the Permitting and Compliance Program of the Development Review South Division, as shown on page D-301 of the adopted 2009/2010 fiscal year budget.

Special Instructions:

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: Findings for Approval (CEQA and CUP/DP Findings)

Attachment 2: County Historic Landmark Findings

Attachment 3: EIR Revision Letter

Attachment 4: Conditions of Approval

Authored by:

Alex Tuttle, 884-6844