

APPEAL TO THE BOARD OF SUPERVISORS  
COUNTY OF SANTA BARBARA

Submit to: Clerk of the Board  
County Administration Building  
105 E. Anapamu Sreet, Suite 407  
Santa Barbara, CA 93101

COUNTY OF SANTA BARBARA  
CLERK OF THE  
BOARD OF SUPERVISORS

2012 FEB - 6 PM 1:15

RE: Project Title Park Hill Estates v.2 Subdivision  
Case Number 10 TRM-00000-00001  
Tract/ APN Number 059-290-041  
Date of action taken by Planning Commission, Zoning Administrator, or Surveyor January 25, 2012

I hereby appeal the "no action" decision of the Planning Commission  
(approval/ approval with conditions/ or denial) (Planning Commission/ Zoning Administrator/ or County Surveyor)

Please state specifically wherein the decision of the Planning Commission, Zoning Administrator, or Surveyor is not in accord with the purposes of the appropriate zoning ordinance (one of either Articles I, II, III, or IV), or wherein it is claimed that there was an error or an abuse of discretion by the Planning Commission, Zoning Administrator, or Surveyor. {References: Article I, 21-71.4; Article II 35-182.3, 2; Article III 25-327.2, 2; Article IV 35-475.3, 2}

Attach additional documentation, or state below the reason(s) for this appeal.

See attached letter

specific conditions being appealed are:

failure to adopt the Mitigated Declaration and failure to approve the project as had been recommended by the Staff.

Name of Appellant (please print): Jeffrey C. Nelson

Address: 735 State Street, #212  
(Street, Apt #)  
Santa Barbara, CA 93101  
(City/ State/ Zip Code)

805-845-7710  
(Telephone)

Appellant is (check one):  Applicant  Agent for Applicant  Third Party  Agent for Third Party

Fee \$643.00 {Fees are set annually by the Board of Supervisors. For current fees or breakdown, contact Planning & Development or Clerk of the Board. Check should be made payable "County of Santa Barbara".}

Signature: Jeffrey C Nelson  
JEFFREY C. NELSON  
Date: FEB 6, 2012

FOR OFFICE USE ONLY  
Hearing set for: \_\_\_\_\_ Date Received: \_\_\_\_\_ By: \_\_\_\_\_ File No. \_\_\_\_\_

NELSON LAW FIRM  
735 STATE STREET  
SUITE 203  
SANTA BARBARA, CALIFORNIA 93101

JEFFREY C. NELSON

Phone (805) 845-7710  
FAX (805) 845-7712  
Jeff@JeffNelsonLaw.com

February 6, 2012

Santa Barbara County Board of Supervisors  
c/o Clerk of the Board of Supervisors  
& Dr. Glenn Russell, Director P&D  
Santa Barbara County  
123 E. Anapamu Street  
Santa Barbara, CA 93101

Re: Appeal of action of the Santa Barbara County Planning Commission on Park Hill Estates v.2 on January 25, 2012

Dear Supervisors and Dr. Russell,

We are appealing the Planning Commission (PC) action of January 25, 2012 that the decision makers in the County will not take action on this project, that the Mitigated Negative Declaration recommended by the staff for adoption is inadequate, and the Planning Commission directive that the staff prepare a focused EIR addressing fire protection and biological resources.

Additionally, we request mediation on this appeal and we request that Dr. Glen Russell be the lead person in the mediation along with a County Counsel representative. Likewise the neighbors asked us January 25, 2012 to arrange a mediation run by Dr. Russell between us as the applicants and the neighbors who have most actively participated in the process. There has, historically, been a land use mediation process on land use appeals.

Under the County Code, the hearing on the appeal shall be de novo. (Santa Barbara County Code 35.102.050 (C)). The Board can and should take the action that the Planning Commission could have taken at its hearing on January 25, 2012. The staff had recommended the Mitigated Negative Declaration be adopted and the project be approved, making the findings and adopting the Conditions of Approval recommended in the Staff Report. It appears the appropriate action would be to modify the section of the MND if appropriate as to fire safety and egress, and attach the Melissa Mooney additional memo she has done in draft as well as approve the project, adopt findings and Conditions of Approval.

Briefly, Fire Dept is the County expert on fire egress and they said they are perfectly fine with this project regardless of the status of the Tuckers Grove access. In 2007 the PC acknowledged there was no nexus between that exit and the project.

The County expert on biology and grassland is Melissa Mooney and she told the PC that there was no evidence much less any substantial evidence as to the issue of whether the bio and grassland review was inadequate.

A Mitigated Negative Declaration (MND) was adopted for this same property in 2007 with 12 lots approved, and interested neighbors declaring that with second units allowed, there would certainly be 24 new homes in the neighborhood from this project.<sup>1</sup> Park Hill Estates v.2 is 15 market rate lots, one affordable lot, and lot designs intended to prevent residential second units or horse/equestrian uses on the lots, thus minimizing those potential uses at times of emergency egress.

Consequently, the additional number of homes from this project is either four more homes at most from previously approved, or eight fewer homes than approved in 2007, counting anticipated second units. The County has approved other projects recently in that same neighborhood (Castro) with four new lots and did not require an EIR or additional concerns concerning egress from the area. This project has caused extra neighborhood concern principally related to the project actually implementing the County's affordable housing requirements, whereas other projects were below the threshold for in-lieu fees or they agreed to pay in-lieu fees.

The County has liability for closing Tuckers Grove as a two way road (which it did eight years after these owners bought their property) if in any fashion its status impairs this property and project, which it now has. The status of that road was characterized as critical to the PC, though it should not have been.

The County has thwarted this project that includes very low income housing with yet more process, and is in violation of its obligations under responsibilities to the state of California under state housing laws and housing element obligations. Neighborhood objections relate directly to the presence of an affordable housing unit in their neighborhood and the use of the State Bonus Density law to deal with the County's affordable housing obligations.

**The action taken that is being appealed (requirement of a focused EIR on Fire Access and Biology)**

At the Planning Commission hearing of January 25, 2012 Commissioner Brown moved, seconded by Commissioner Brooks and carried by a vote of 4 to 0 (Commissioner Blough absent):  
Find that no action can be taken on the project because the Mitigated Negative Declaration prepared for the project is inadequate and direct staff to prepare a focused EIR addressing fire protection and biological resources.

**Testimony of the County's experts on these issues**

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<sup>1</sup> The MND is 2007 stated that "developing the vacant land that is historically covered with highly combustible vegetation could also significantly reduce fire risks to the area (Martin Johnson, Planning and Engineering Section, County of Santa Barbara Fire Department, Personal Communication, June 27, 2006)". MND section 5.7 .

As to the issue of adequate fire accesses, Captain Pepin of the Fire Department said as follows:

Capt. Pepin- "To stay consistent with access that we are working on different projects before you, let's start with the basics, This project has less than 30 homes which for our standards only requires one access point. They have come forward with two and that is outstanding and we support them for that. Go to the neighborhood, it also has two acceptable access points, San Antonio to the north and Via los Santos to the south."

As to biology, the County Planning and Development staff biologist and expert Melissa Mooney said as follows:

"It is my professional opinion that through the surveys Mark De la Garza has prepared in conjunction with the surveys that I have done, that the surveys referred to in the initial study are adequate from a CEQA prospective."

See a transcript of the salient portions of the discussion on these two key issues at the Planning Commission attached.

#### **Staff recommendation**

The staff recommended approval after over 350 hours of staff time and almost 2 years of analysis.

#### **The Project**

The two main issues, still alive in the 2010 application since 1997, were as follows:

1) **Affordable housing.** The 2007 approval called for payment of in-lieu fees. Those fees were \$97,000 in 1997. In 2007 they were, for 12 lots, \$784,000. Those in-lieu fees have been increased to \$1.1 million for 12 lots and \$1.3 million for 14 lots. We addressed this issue by providing an onsite unit via Bonus Density, as the current inclusionary requirement is that there be six affordable onsite units (with an increase in project density as compensation for affordable units) or a vast in-lieu fee (\$1.3 million). Both were unreasonable and infeasible.

#### **State Density Bonus Program**

The base density for this property is 14 residential lots based on a one-acre minimum parcel size. Pursuant to the State Density Bonus Program (Government Code Section 65915 et seq.), the applicant is entitled to a bonus density of 25% by providing one affordable unit/lot at the "very low income" category as part of the project. Thus, by providing one affordable unit, the density for the property can be increased from 14 units/lots to 18 units/lots (as fractional units are rounded up) and such an increase in density does not require an amendment to the land use designation or zone district for that property. Under State Bonus Density law, we were allowed 18 lots on this 14.87 acre property- 17 market units and 1 affordable.

This proposal, including the introduction of 1 income restricted small home in the neighborhood, stirred controversy and opposition among some neighbors. We have had many meetings with neighbors and after the hearing on the Negative Declaration made a multitude of

project changes done to address specific neighbor issues, the list of which is attached. First and foremost was deleting two of the market rate units so it would be 15 market rate lots and 1 affordable on this property, which is 14.87 –acres.

2) The second project issue was **Native Grasses**. These are not rare endangered or protected plants and could be disked-under at any time for fire protection or lost if the property were returning to dry farming, which the property experienced in earlier years. In 2007, there was about 1.4 acres of isolated patches of grasslands. In that approval, the mitigation was to plant new grasslands in the detention basin and in five of the backyards. This portion of the yards would be fenced off with a 6 ft. fence with human use prohibited forever. That was an entirely impractical handling of the issue.

The County required a new study and the grasses had increased to 3 acres in 2010. The property must be cut for fire safety each year and grass seeds can spread. Off site mitigation was most practical and beneficial biologically. We sought a 1-1 ration of replacement as our bonus density regulatory incentive which satisfied environmental mitigation requirements per one expert, but the County rejected that request. County P&D identified an offsite candidate as County Parks property – by the Preserve at San Marcos, but Parks rejected that offer. Fortunately we found a mitigation partner in the UCSB Cheadle Center for Biodiversity. We were working with them on another offsite mitigation program and the County’s requirement of 6 acres of grassland restoration at the West Campus Bluffs open space near UCSB was a perfect fit.

**The previous approval and certified Mitigated Negative Declaration for this same property**

The Planning Commission approved a 12 unit subdivision and certified the Environmental Document on June 6, 2007.<sup>2</sup> This is material to the current action.

The County approved this property for development of 1 unit per acre in the current community plan. The EIR at that time anticipated isolated parcels to be developed with some incidental environmental impacts. The Housing Element environmental review found that the extra units through bonus density or through the inclusionary housing program would not be considered an environmental impact. The County adopted a Mitigated Negative Declaration in 2007 and there is no evidence of changed conditions other than the increase in native grasses.<sup>3</sup>

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<sup>2</sup> The MND in 2007 stated “The Goleta Community Plan EIR identified that cumulative fire impacts associated with foothill build out are considered significant and unavoidable (Class I) due to constraints associated with providing adequate fire protection for continued foothill development. However, the Board’s approval of 91-EIR-13 included a Statement of Overriding Considerations that resulted in adoption of fire protection polices and development. Under this proposal, the project would be consistent with the GCP policies and standards in providing two routes of emergency access, all existing and new roads would meet Fire Department criteria, and adequate fire water flows and pressures would be available.” MND section 5.7

<sup>3</sup> It has been held that with a prior environmental review and prior approval the project to be considered is the **changes** from the reviewed and approved project- that is the change from 12 homes to 16 homes. In Benton vs. Board of Supervisors (1991) 226 Cal. App. 3<sup>rd</sup> 1467, the court held that it was appropriate for the County to use a prior mitigated negative declaration for a winery that had been approved when the requested revision was to move it to an adjacent parcel of land. The court ruled that it was appropriate to apply section 21166 for the mitigated negative declaration even though the site had changed. (226 Cal. App. 3<sup>rd</sup> at 1476).

The County certified a Mitigated Negative Declaration in 2007 for this property that identified that there were no significant impacts to biological resources upon development of the site. That 2007 project developed the entire site, the same area being developed with PHE v.2. That MND went unchallenged. County staff has determined that there is no new evidence of any biological issues other than native grasses. The County Staff biologist determined there to be no white tailed kite, raptor or other species in onsite surveys and the Mitigated Negative Declaration determines that the surveys for native grasses and other bio resources are sufficient for the purposes of CEQA.

The County has approved three houses of worship in the immediate neighborhood, all of which have significantly more people onsite at various times than would this low density housing development.<sup>4</sup> The County and neighbors have not chosen to strip those institutions of their conditional use permits or approvals because of fire egress issues, nor has any other housing project been a target as to this issue. It is arbitrary and capricious and disingenuous to target Park Hill Estates v.2 alone as to this issue.

**Infill housing, NIMBYs, Bonus Density, and State Housing Law obligations**

The state has identified infill housing as the basic building block of placing homes near jobs, reducing vehicle miles traveled and taking steps towards addressing green house gas emissions. Infill housing means that it is proposed with existing homes around an open site. Historically infill sites have drawn NIMBY opposition that outlying sites do not have. One of the statutory methods to aid infill projects is the bonus density law used in this project. The bonus density inclusionary housing alternative also addresses the entirely unreasonable and infeasible \$1.3 million in-lieu fee. Our initial plan had two more lots which we deleted though were entitled to them under the bonus density law.

Neighbors suggested we remove lots to make it less than the full bonus density. In this compromise plan, we agreed to do so. We also relocated the affordable lot per neighbor suggestions. We changed every single lot in the project in this compromise plan that went to the Planning Commission.

We have what will be an extraordinary community benefit arranged by having 6 acres of native grassland planned to be planted at the UCSB West Campus Bluffs through the Cheadle Center for Biodiversity.

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“Under Cal. Code Regs. tit. 14, § 15162, adopted pursuant to CEQA, when an environmental impact report (EIR) or negative declaration has been prepared, no additional EIR need be prepared unless subsequent substantial changes are proposed or occur. County planners proposed another mitigated negative declaration based on a comparison between what the company could construct under its existing permit and what it requested in the new application, and building permits issued. The planning commission approved use permits and adopted a mitigated negative declaration.” (226 Cal.App.3d 1467)

<sup>4</sup> The 2007 MND for Park Hill Estates said “With the approval of the B’nai B’rith CUP (85-CP-060 RV01), a number of upgrades to this road were required, including vegetation trimming and installing a guardrail.” MND section 5.7)

No one has a vested right in the current biology of the site as it could be disked at any time for fire safety and or dry farming.

**Endless delays are effective denial and inconsistent with the treatment of other projects and inconsistent with State Bonus Density law.**

The County has effectively denied this project since November of 2010 by delaying action on it for the 14 months since it was first in line for Planning Commission hearing. The application was filed in April 2010 with the project identifying the exact changes it wanted from the prior approval, and exactly why.

The owners have been waiting over 40 years for this property to be properly positioned to sell and develop. Steven Zeluck, one of the owners, has provided the County with that background and expression of frustration.

This plan is significantly better than the 2007 plan in many respects and deserves approval. Certainly no health and safety issue exists that can be the only predicate for a denial for a State Bonus Density Project.

The County previously approved a second version of a Bonus Density project in about 4 months time from filing of the second version- The Loop v.2 in Isla Vista. We identified that as a comparable case to the County at the outset of this project.

This project has been subjected to excessive staff time and delays. This is not for legitimate planning purposes, but because concerned neighbors raised their voices, principally stirred by the actual presence of one affordable unit in their neighborhood.<sup>5</sup>

This is our second experience with the County avoiding the requirements of the bonus density law through other means. In The Knoll (07TRM-00000-00005), the County staff denied our bonus density request to have the DR zoning be modified through an incentive so that individual lots could be created consistent with the zoning rather than full architecture being required in the application. The County made no required findings to deny the incentive. After top local and statewide architects had prepared architecture for all the lots, the BAR required 12 hearings and a year of revisions at great cost and expense even though the original plans had all unquestionably complied with the applicable Eastern Goleta Valley Design Guidelines.

The BAR and the P&D (for whom the P&D liaison was A. Almy) effectively killed that project with vastly expensive multiple iterations of homes at the same time the market was going down.

In PHEv.2, case the project had originally been targeted for a November 2010 Planning Commission hearing. Staff delayed finalizing the staff report, which after all involved

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<sup>5</sup> In fact, one of the neighborhood churches has a residential rental unit that is a de facto affordable rental that has operated successfully in the area without any neighborhood detriment.

three changes to the 2007 approval and thus “denied” the project during that timeframe without making required denial findings. P&D informed us that even a focused EIR would take about as much time as the Cavaletto Tree Farm EIR which took almost two years (Dec. 2009- Oct. 2011) from start to completion.

We were informed that two P&D staff members endeavored to have the Fire representative declare the Tuckers Grove emergency access inadequate such that they could make a CEQA determination that an EIR was required on emergency egress.

The Fire Department has made a determination that the project complies with all egress requirements without the presence of the Tuckers Grove additional egress. There is no substantial evidence to support the County identifying some other standard for acceptable fire egress other than what is determined by the Fire Department and Fire Marshall.

The County has communicated to the state of California that it is acting in good faith to meet the state housing requirements imposed on local municipalities. The action on this project and on the Knoll demonstrate that there is an active practice by the County to thwart projects that have affordable housing via the State bonus density. We will so communicate to the State and seek appropriate action on their part.<sup>6</sup>

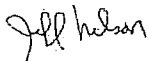
These two projects demonstrate a pattern and practice of the County thwarting infill housing by taking steps necessary to make a project economically unviable through delays.<sup>7</sup>

**The request for mediation.** See Attached Request for Mediation.

**Proposed action.**

We respectfully request that the Supervisors hear the project de novo, approve the MND with any edits from that at the PC, and approve the project as recommended by the staff in the staff report, except for revising the affordable housing requirement (Condition 42) so that the affordable rental can be built after the 10<sup>th</sup> market rate unit has been built, which project condition change we had committed to support to interested neighbors.

Very Truly Yours,



Jeffrey C. Nelson

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<sup>6</sup> Land use disputes have historically consumed County resources and have even resulted in personal judgments for damages against individual Planning & Development staff members for their specific behavior. In a challenging economy and era of limited governmental resources, these disputes are bad for both government and the private sector, but they are the only avenue available for aggrieved applicants if the County does not act reasonably or appropriately on applications



Appeal to Board of Supervisors

Park Hill Estates v.2

Page | 8

Attachments:

Planning Commission Action Letter

Appeal Form and appeal fee

Transcript of Planning Commission Hearing (partial as to two issue involved in the action)

Request for Mediation

Artistic rendition of development with proposed lots and maximum home sizes

(We incorporate by reference the administrative record of this case as well as and other cases referenced hearing or therein)



# COUNTY OF SANTA BARBARA CALIFORNIA

## PLANNING COMMISSION

COUNTY ENGINEERING BUILDING  
123 E. ANAPAMU ST.  
SANTA BARBARA, CALIF 93101-2058  
PHONE: (805) 568-2000  
FAX: (805) 568-2030

January 31, 2012

Jeff Nelson, Oak Creek Company  
735 State Street, Suite 212  
Santa Barbara, CA 93101

PLANNING COMMISSION  
HEARING OF JANUARY 25, 2012

**RE: *Park Hill Estates v.2 Subdivision; 10TRM-00000-00001***

Hearing on the request of Jeff Nelson to consider Case No. 10TRM-00000-00001, [application filed on May 4, 2010] for approval of a Vesting Tentative Tract Map in compliance with County Code Chapter 21 to divide 14.87 acres into 18 lots of varying sizes, including 16 residential lots, on property zoned 1-E-1; and to adopt the Negative Declaration (11NGD-00000-00013) pursuant to the State Guidelines for Implementation of the California Environmental Quality Act. As a result of this project, significant but mitigable effects on the environment are anticipated in the following categories: Aesthetics, Air Quality, Biological Resources, Cultural Resources, Fire Protection, Geologic Processes, Land Use, Noise, Public Facilities, Transportation, and Water Resources. The ND and all documents may be reviewed at the Planning and Development Department, 123 East Anapamu Street, Santa Barbara. The ND is also available for review at the Central Branch of the City of Santa Barbara Library, 40 East Anapamu Street, Santa Barbara. The application involves AP No. 059-290-041, located at 4700 Via Los Santos, in the Goleta area, Second Supervisorial District. (Continued from 11/02/11 and 12/05/11)

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Dear Mr. Nelson:

At the Planning Commission hearing of January 25, 2012, Commissioner Brown moved, seconded by Commissioner Brooks and carried by a vote of 4 to 0 (Commissioner Blough absent):

1. Find that no action can be taken on the project because the Mitigated Negative Declaration prepared for the project is inadequate, and direct staff to prepare a focused EIR addressing fire protection and biological resources.

The action of the Planning Commission on this project may be appealed to the Board of Supervisors by the applicant or any aggrieved person adversely affected by such decision. To qualify as an aggrieved persons the appellant, in person or through a representative, must have

informed the Planning Commission by appropriate means prior to the decision on this project of the nature of their concerns, or, for good cause, was unable to do so.

Appeal applications may be obtained at the Clerk of the Board's office. The appeal form must be filed along with any attachments to the Clerk of the Board. In addition to the appeal form a concise summary of fifty words or less, stating the reasons for the appeal, must be submitted with the appeal. The summary statement will be used for public noticing of your appeal before the Board of Supervisors. The appeal, which shall be in writing together with the accompanying applicable fee must be filed with the Clerk of the Board of Supervisors within the 10 calendar days following the date of the Planning Commission's decision. In the event that the last day for filing an appeal falls on a non-business of the County, the appeal may be timely filed on the next business day. This letter or a copy should be taken to the Clerk of the Board of Supervisors in order to determine that the appeal is filed within the allowed appeal period. **The appeal period for this project ends on February 6, 2012 at 5:00 p.m.**

If this decision is appealed, the filing fee for both non-applicant and applicant is \$643 and must be delivered to the Clerk of the Board Office at 105 East Anapamu Street, Room 407, Santa Barbara, CA at the same time the appeal is filed.

Sincerely,



Dianne M. Black  
Secretary to the Planning Commission

cc: Case File: 10TRM-00000-00001  
Planning Commission File  
Engineer: Bob Flowers, Flowers & Associates, 201 N. Calle Cesar Chavez, Suite 100, Santa Barbara, CA 93103  
County Chief Appraiser  
County Surveyor  
Fire Department  
Flood Control  
Park Department  
Public Works  
Environmental Health Services  
APCD  
Janet Wolf, Second District Supervisor  
Cecilia Brown, Second District Planning Commissioner  
Rachel Van Mullem, Senior Deputy County Counsel  
Alex Tuttle, Planner

DMB/dmw

APPEAL TO THE BOARD OF SUPERVISORS  
COUNTY OF SANTA BARBARA

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Please state specifically wherein the decision of the Planning Commission, Zoning Administrator, or Surveyor is not in accord with the purposes of the appropriate zoning ordinance (one of either Articles I, II, III, or IV), or wherein it is claimed that there was an error or an abuse of discretion by the Planning Commission, Zoning Administrator, or Surveyor. {References: Article I, 21-71.4; Article II 35-182.3, 2; Article III 25-327.2, 2; Article IV 35-475.3, 2}

Attach additional documentation, or state below the reason(s) for this appeal.  
See attached letter

Specific conditions being appealed are:  
failure to adopt the Mitigated Declaration and failure to approve the project as had been recommended by the Staff.

Name of Appellant (please print): Jeffrey C. Nelson

Address: 735 State Street, #212  
(Street, Apt #)  
Santa Barbara, CA 93101  
(City/ State/ Zip Code) 805-845-7710  
(Telephone)

Appellant is (check one):  Applicant  Agent for Applicant  Third Party  Agent for Third Party

Fee \$ 643.<sup>00</sup> {Fees are set annually by the Board of Supervisors. For current fees or breakdown, contact Planning & Development or Clerk of the Board. Check should be made payable "County of Santa Barbara".}

Signature: Jeffrey C Nelson Date: FEB 6, 2012  
JEFFREY C. NELSON

FOR OFFICE USE ONLY

Hearing set for: \_\_\_\_\_ Date Received: \_\_\_\_\_ By: \_\_\_\_\_ File No. \_\_\_\_\_

PARKHILL ESTATES V.2

PLANNING COMMISSION HEARING – Wed. Jan. 25, 2012

Item number 1, Park Hill Estates, v.2

Partial Transcript

EXCERPTS

Chair Cooney-There is a lot about the project that addresses these issues. My point is that each additional home adds to the chaos of that moment of evacuation.

**Capt. Pepin- To stay consistent with access that we are working on different projects before you, let's start with the basics. This project has less than 30 homes which for our standards only requires one access point. They have come forward with two and that is outstanding and we support them for that. Go to the neighborhood, it also has two acceptable access points, San Antonio to the north and Via los Santos to the south. (emphasis added)**

The alternate access point out the park, very recently the Dept Chief and Fire Marshall have had conversations about what could be improved down there. Not sure how that (its present condition) came about, but it doesn't meet the requirements of the fire department. I was there several times in the last week, it is really a one way road, and during an emergency, if someone was leaving the area and trying to get out thru the park, and anything happened to make that congested, it is a horrible place for people to be trapped. Fire Marshall's opinion also that there needs to be some improvement there for it to be acceptable.

**It really isn't related to this, we don't have the authority to direct that to this project. (emphasis added)**

Not a good escape route, although it has been used, it has a lot of potential for danger.

Cooney- With regard and I'm very appreciative of you coming because these issues give me great concern, and I understand that the project is doing what it can to mitigate the new homes built in the area, but it doesn't seem to me that it is making anything better for the neighborhood, although it is cutting the grass down at times, while the neighborhood has two acceptable means of escaping without considering this park emergency access, it is my conclusion that we can't pay attention to that particular route as addressing the issue of safety, I think what you are saying is that basically if you had an emergency situation on a one way road in bad condition, perhaps even you would-be subjected to a greater danger if the fire jumped in to the park, it seems to me that we ought to wipe that off as in anyway addressing the serious problem that we have. Do you agree?'

Pepin-I do agree, and that was the same feeling of the Fire Marshall this morning. Even the signage is confusing. The crash gates are not clear, it is nothing that we feel is an advantage for this project at all.

Cooney- Anything else you would like to add with regard to fire safety?

Pepin- I believe that provided everything along with our standards for the project, in that it does meet, I do understand that you are adding homes to a neighborhood that has already seen a lot of evacuations and everything that goes with it, but I don't think I have anything else to add.

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**Melissa Mooney, County Biologist**

The Key issues as you know are loss of native grassland on this site. To address the adequacy of the reports, as Mr. Magney pointed out, there were 2 reports prepared, by Watershed Environmental. One in 1999 and another in 2010. 1999 was a quantitative survey conducted in March, of 1998, generally the proper season of the year to be sampling, the update did result in additional information, although it was done in August.

That second survey followed a site visit I conducted in the Fall of 2010.

In addition to those two reports, I have been on the project 5 times in Spring, summer and winter; the last time I was there was Spring in 2011, I was there in March and April. I have also been to the mitigation site.

**It is my professional opinion that through the surveys Mark De la Garza has prepared in conjunction with the surveys that I have done, that the surveys referred to in the initial study are adequate from a CEQA prospective. (emphasis added)**

There is also an additional letter from Mark de la Garza, I hope you have all had a chance to read it, because that letter is important that you review, because it addresses Mr. Magney's letter, primarily the need for surveying Lichen species and some of the sampling method analysis.

What I separate—in to 5 broad areas in terms of the technical issues; 1) comments regarding our sampling techniques, 2) adequacy of the vegetation mapping that was done 3) comments regarding grassland definition, 4) The need for additional surveys—was addressed by Mr. De la Garza, and 5) the adequacy of the mitigation. I believe that our sampling methods are adequate under CEQA guidelines.

I also believe that the vegetation mapping is adequate. It is acknowledged that the boundaries are hazy, they don't stop and start, A vegetation map is an interpretation of what the biologist is

seeing on the ground. I believe the boundaries of the polygons are accurate as mapped by Watershed given the limitations we have to deal with in the CEQA process.

Issues of grassland definition, my opinion is that what is really happening, there is some confusion over grassland containing native species, and a native grassland requiring mitigation under the county thresholds. The County has set up guidelines which we follow. There is a great difference in a grassland containing native species, and a native grassland requiring mitigation. The size criteria, the 10% cover criteria help us determine which areas need to be mitigated.

The comments regarding fair argument and General Plan policies, I defer to other staff to address.

Another comment regarding the criteria to determine the habitat quality. This is discussed in the ND; it is the basic criteria. Standard criteria for describing plant communities.

As to the Statement no evaluation of endangered species, I've been on the site five times, many times in the Spring, there has been no evidence presented that there are any rare species on site.

With regard to the protection of grasslands in addition to native grasslands, was addressed to a certain extent in the ND and in the Goleta Community Plan, found to be significant and unavoidable and a statement of overriding considerations prepared, we acknowledge that this grassland has foraging value, but I refer back to the ND to address that issue.

Cooney- Mr. Magney mentioned the transfer location at UCSB being a different ecosystem, you have been there, how do we address the concern that we are moving it to an area that is already open and a foraging habitat. How do we address that this mitigation is benefitting another area?

Mooney- That is a very good question. Staff has wrestled with mitigation offsite for this project, Prior to UCSB I believe there was an attempt to find other sites, none of those "panned out". I share the concern that this is essentially a different habitat. But in the absence of another alternative to us, and because of the size of the site, the fact that it is surrounded by development, we have made the tradeoff and decided that this is an appropriate mitigation.

**Request for Mediation**  
Matter: Appeal of Park Hill Estates v.2  
Planning Commission Action of January 25, 2012 to the Board of Supervisors

Attention Dr. Russell & County Counsel,

There has, historically, been a land use mediation process on appeals to the board of Supervisor. We hereby request a mediation and we request that Dr. Glen Russell be the lead person in the mediation along with a County Counsel representative.

Likewise the neighbors asked us Wed January 25, 2012 to please arrange a mediation run by Dr. Russell between with us as applicant and the most involved neighbors in this project's processing. Among the people we will invite to the mediation from the neighborhood are:

Mr. Danny Vickers  
Mrs. Regina Magid  
Mr. David Brown  
Mr. Chris O'Conner  
Mr. and/ or Mrs. Mike and Nancy Sheldon  
Stillman Chase  
Mr. and/ or Mrs. Roger and Meg Jette  
(others the neighbors want so long as the number is workable).

We request that each party submit to you in advance a list of issues they wish to have addressed in the mediation.

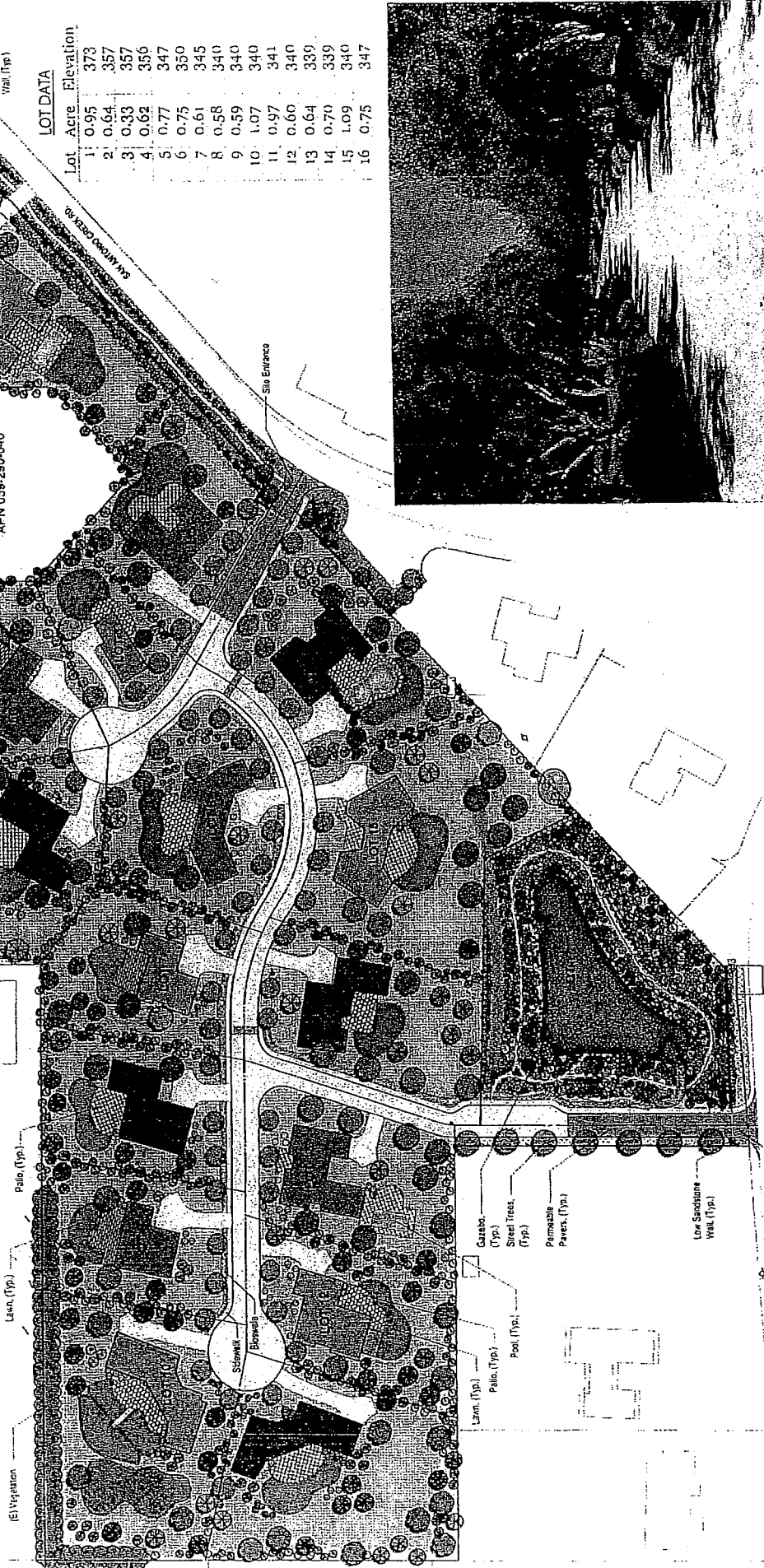
Thank You

Jeffrey C. Nelson, applicant



LOT 18  
FENWELL RD. (PRIVATE)

NOT A PART  
APN 058-290-040



**LOT DATA**

Lot	Acres	Elevation
1	0.95	373
2	0.64	357
3	0.33	357
4	0.62	356
5	0.77	347
6	0.75	350
7	0.61	345
8	0.58	340
9	0.59	340
10	1.07	340
11	0.97	341
12	0.60	340
13	0.64	339
14	0.70	339
15	1.09	340
16	0.75	347

DAVID R.  
BLACK &  
ASSOCIATES  
ARCHITECTS  
1000 AVENUE OF THE STARS  
SUITE 1000  
COSTA MESA, CA 92626  
TEL: 714.440.1000  
WWW.DRBLACK.COM

Entry Concept



**ILLUSTRATIVE SITE PLAN**  
**PARK HILL ESTATES v2**  
 October 12, 2011  
 For the City of Orange Co.

VIA LOS SANTOS

S4 Entrance

SAN ANTONIO CREEK RIL.