



**COUNTY OF SANTA BARBARA
PLANNING AND DEVELOPMENT**

MEMORANDUM

TO: County Planning Commission

FROM: Alex Tuttle, Planner
884-6844

DATE: September 2, 2009

RE: Santa Barbara Botanic Garden Vital Mission Plan
Case Nos. 72-CP-116 RV01, 99-DP-043

The purpose of this memo is to address several issues that were identified in a number of the public comment letters that were submitted for the September 2, 2009 Planning Commission hearing on the Santa Barbara Botanic Garden Vital Mission Plan. In addition, revised Findings and Conditions of Approval that address these and other issues are attached for your consideration.

The first issue raised in a comment letter is in regards to the discrepancy between the historic visitation data provided in Appendix H of the EIR and the activity levels identified in the project description (p. C-10 of the PC staff report dated July 22, 2009, as revised in the August 5, 2009 staff memo). As discussed on pp. 2-24 and 2-25 of the Final EIR, the activities and programs held at the Garden (e.g. classes, lectures, private parties, special events, etc.) experience great variability in their size, number, and frequency throughout each year and from year to year. For the purposes of establishing the existing baseline conditions in the EIR, visitation data from 2005 provided by the Botanic Garden was utilized, representing the most recent full year prior to the Notice of Preparation in March 2006. Visitation in 2005 associated with educational programs and special events was lower than the historic peak for these uses represented in the use tables provided to you in the staff memo dated August 5, 2009. The "current" levels identified in the project description should more appropriately be considered representative of peak levels that the Garden has experienced historically and do not directly coincide with the baseline levels relied upon the EIR. Thus, where staff is recommending a cap on activities at "current" levels, it actually relates more to historic highs than to the level of use experienced within the last 10 years. In considering this issue when taking action on the project, the Planning Commission has several options, including 1) approving the proposed levels of use requested by the Garden; 2) approving the staff recommendation of historic peak use; or 3) approving a different cap, perhaps one more in line with recent use levels, such as the 10-year average between 1997 and 2006 (provided in p.4 of Appendix H in the EIR). If your Commission so directs, staff can make any

necessary changes to the EIR to clarify both the discrepancies and how the visitation data and use levels are represented.

The second issue relates to consultation with the local Native American community. The County's Land Use Element requires such consultation for projects that impact cultural sites. To this end, the County included local Native Americans in the scoping process and circulation process of the Draft EIRs and received multiple comment letters on the project. In March 2009, the County sent letters to several members of the local community inviting further comment and discussion of the project and did not receive any requests for a meeting or further discussion in response. Immediately prior to the first Planning Commission hearing on the Vital Mission Plan on August 5, 2009, a local Native American requested a more formal consultation meeting with the County, applicant, and local Native American community members. Planning and Development staff responded to this request by scheduling and holding a meeting with six local representatives on August 28, 2009. At that meeting, the project was discussed, including the archaeological investigations and EIR conclusions, and the community expressed their concerns with respect to the impacts of the project on sensitive cultural resources and offered their recommendations for avoidance or further mitigation of impacts. These concerns and recommendations have been summarized in a letter to your Commission from Frank Arredondo dated August 31, 2009, one of the representatives at the meeting. It is important to note that the proposed project does not involve a General Plan Amendment and therefore formal consultation as required by SB 18 is not required. Staff has reviewed the County's policies and guidelines related to consultation and involvement of the Native American community and believes that staff has substantially complied with these guidelines and procedures in processing this project and bringing it forward to the Planning Commission for action.

The third issue is the relationship of the proposed project with the rebuilding efforts resulting from the recent Jesusita Fire. Concerns have been expressed that there may be significant cumulative impacts associated with the overlapping construction activities from the fire rebuilds and buildout of the proposed project. It is expected that the majority of fire rebuilds will occur within the next two years, since all building permits must be obtained within 2 years from the date of destruction in order to obtain an exemption for rebuilding like for like. It will likely take more than one year from the date of final approval of the Garden's Vital Mission Plan project before building permits have been obtained to start construction and, even then, buildout would occur in phases over the next decade. Thus, the amount of overlap between construction of the proposed project and Jesusita fire rebuilds is not expected to be significant. In the EIR, the County analyzed related projects that were planned or pending as of the date of the Notice of Preparation. The fire occurred in between the second Draft EIR recirculation document and release of the Final EIR. Only one application for a rebuild of a single family dwelling destroyed in the Jesusita Fire was submitted prior to preparation of the Final EIR. To date, only three Exemptions have been granted for rebuilds of single family dwellings within Mission Canyon. Nonetheless, the EIR does include a discussion of the affects of the Jesusita Fire in the context of cumulative impacts.

Attached are revised Findings and Conditions of Approval for your consideration.

REVISIONS TO FINDINGS

1.5 FINDINGS THAT IDENTIFIED PROJECT ALTERNATIVES OR MITIGATION MEASURES ARE NOT FEASIBLE

The Final EIR (07EIR-00000-00001), prepared for the project evaluated a no project alternative, an off-site alternative, a reduced project alternative, and a redesigned project alternative as methods of reducing or eliminating potentially significant environmental impacts. The Planning Commission finds that the following alternatives are infeasible or were not selected for the reasons stated:

- 4. Project Redesign Alternative:** Consistent with the allowances under CEQA, this alternative would ~~not meet most but not all some~~ of the objectives of the project. Specifically, establishing the Cavalli path as an unpaved pathway would not meet the objective of increasing universal access opportunities for visitors to Garden pathways, since it would not be accessible to mobility-impaired visitors¹. Replacement of the existing cyclone fencing in high use areas with 3 ½-foot post and smooth wire fencing is achieved through the Garden's redesign of the project, except in those areas where existing cyclone fencing occurs. In addition, locating two additional staff residences next to the Director's residence (the Caretaker's Cottage and a new single family dwelling) would be feasible, but would not be necessary in order to reduce impacts to less than significant levels. While this alternative is considered feasible, Therefore, this alternative it was not selected since it was not necessary in order to mitigate or avoid significant impacts.

2.0 ADMINISTRATIVE FINDINGS

2.1 CONDITIONAL USE PERMIT FINDINGS

Findings required for all Conditional Use Permits. In compliance with Subsection 35.82.060.E.1 of the County Land Use and Development Code, prior to the approval or conditional approval of an application for a Conditional Use Permit the review authority shall first make all of the following findings:

2.1.1 The site for the proposed project is adequate in terms of location, physical characteristics, shape, and size to accommodate the type of use and level of development proposed.

The Botanic Garden site is approximately 78 acres in size. Buildout of the proposed project would result in total building coverage of approximately 1.1 acres. Approximately 91% of the site would remain undeveloped or contain cultivated Garden exhibits. Therefore, the level and intensity of development proposed remains low relative to the size of the Garden property. Development on the site would meet all setback

¹ P&D is recommending that this path be narrowed and unpaved to ensure policy consistency in respect to minimization of grading and reduced impacts to biological resources. Of note herein is that there is no requirement for full ADA access to the entire garden and additionally, access to the mobility impaired could be provided to the Cavalli overlook, while not along the new pathway, through vehicular access from the east side of the Cavalli site, off Los Canoas, up to the proposed new overlook.

requirements and height restrictions. While the project site is constrained due to steep slopes, dense vegetation, creek corridors, and other important biological and cultural resources, proposed development is clustered around existing development in areas where impacts to these resources are minimized. The Garden has been operating at this site since 1926; therefore, the property is adequate for accommodating its continued use as a botanic garden open to the public. By capping Garden activities and programs consistent with historic peak ~~at current~~ levels (with the exception of general visitation), hazards associated with the location of the site in an area that is confronted by significant public safety concerns related to wildfires and evacuation, are substantially abated. The site is therefore adequate to accommodate the type of use and level of development proposed and this finding can be made.

2.1.2 *Within the Inland area significant environmental impacts will be mitigated to the maximum extent feasible.*

The proposed project would not result in any significant and unavoidable impacts. Implementation of mitigation measures identified for the project would reduce impacts of the project to less than significant levels. One of the most significant elements of the project is its impacts related to fire hazards and emergency evacuation, primarily associated with large groups visiting the Garden and potentially inhibiting evacuation of surrounding residents in a wildfire event. In order to mitigate this impact to the maximum extent feasible, proposed uses at the Garden related to special programs and events would be capped consistent with historic peak ~~at current~~ ~~baseline~~ levels. This would still allow the Garden to hold special events and programs consistent with their historic peak ~~current~~ use levels in order to provide a necessary fundraising element of their operation. With these use restrictions and the proposed fire protection improvements proposed as part of the project, fire hazard impacts would be reduced to the maximum extent feasible. In addition, all of the recommended mitigation measures of the EIR have been incorporated into the project as conditions of approval to ensure impacts are reduced to the maximum extent feasible. Therefore, impacts of the proposed project have been reduced to the maximum extent feasible and this finding can be made.

2.2 DEVELOPMENT PLAN FINDINGS

A. Findings required for all Preliminary or Final Development Plans. In compliance with Subsection 35.82.080.E.1 of the County Land Use and Development Code, prior to the approval or conditional approval of an application for a Preliminary or Final Development Plan the review authority shall first make all of the following findings:

2.2.1 *The site for the subject project is adequate in terms of location, physical characteristics, shape, and size to accommodate the density and intensity of development proposed.*

The Botanic Garden site is approximately 78 acres in size. Buildout of the proposed project would result in total building coverage of approximately 1.1 acres. Approximately 91% of the site would remain undeveloped or contain cultivated Garden exhibits. Therefore, the level and intensity of development proposed remains low relative to the size of the Garden property. Development on the site would meet all setback

requirements and height restrictions. While the project site is constrained due to steep slopes, dense vegetation, creek corridors, and other important biological and cultural resources, proposed development is clustered around existing development in areas where impacts to these resources are minimized. The Garden has been operating at this site since 1926; therefore, the property is adequate for accommodating its continued use as a botanic garden open to the public. By capping Garden activities and programs consistent with historic peak ~~at current~~ levels (with the exception of general visitation), hazards associated with the location of the site in an area that is confronted by significant public safety concerns related to wildfires and evacuation, are substantially abated. The site is therefore adequate to accommodate the type of use and level of development proposed and this finding can be made.

2.2.2 *Adverse impacts will be mitigated to the maximum extent feasible.*

The proposed project would not result in any significant and unavoidable impacts. Implementation of mitigation measures identified for the project would reduce impacts of the project to less than significant levels. One of the most significant elements of the project is its impacts related to fire hazards and emergency evacuation, primarily associated with large groups visiting the Garden and potentially inhibiting evacuation of surrounding residents in a wildfire event. In order to mitigate this impact to the maximum extent feasible, proposed uses at the Garden related to special programs and events would be capped consistent with historic peak ~~at current~~ ~~baseline~~ levels. This would still allow the Garden to hold special events and programs consistent with their historic peak ~~current~~ use levels in order to provide a necessary fundraising element of their operation. With these use restrictions and the proposed fire protection improvements proposed as part of the project, fire hazard impacts would be reduced to the maximum extent feasible. In addition, all of the recommended mitigation measures of the EIR have been incorporated into the project as conditions of approval to ensure impacts are reduced to the maximum extent feasible. Therefore, impacts of the proposed project have been reduced to the maximum extent feasible and this finding can be made.

REVISIONS TO CONDITIONS OF APPROVAL
SANTA BARBARA BOTANIC GARDEN VITAL MISSION PLAN
September 2, 2009

Condition #1, Project Description:

Classes, Visitors, and Special Events

The Botanic Garden is requesting visitor increases associated with classes, lectures, special events, etc., however these proposed increases are not included in the approved project. Rather, use levels are capped at the levels of use that were occurring at the time of the Notice of Preparation. Existing and proposed classes, lectures, special events, and other activities are identified in the tables below. Currently, five to ten professionals use the herbarium and research facilities weekly, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. The Botanic Garden Volunteer meetings consisting of 5 to 25 people are held 6 to 12 times per year. The Botanic Garden does not expect an increase in these meetings or attendance. Miscellaneous business, research and educational visits not included above account for approximately 12 people per day and would not directly increase with project implementation. These individuals typically utilize various buildings on the west side or are out on the Botanic Garden grounds.

Condition #62:

62. **Policy Consistency.** Prior to Zoning Clearance Issuance, the project shall be modified to avoid development on slopes in excess of 30%. This shall include 1) a modification to the parking stalls along the private driveway leading up to the Gane House; 2) a redesign of the Cavalli path to eliminate paving and the need for vertical retaining walls (non engineered stacked rock walls at a maximum height of 24" would be allowable); and 3) a reconfiguration of the detention basin on the East of Mission site; and 4) relocation of the utility line infrastructure extending from Mission Canyon Road up to the Gane House to stay within the roadway. **Plan Requirements and Timing:** These modifications shall be shown on all grading and building plans submitted to the Building Division and shall be reviewed and approved by the BAR prior to Zoning Clearance Issuance.

Monitoring: Permit compliance and Grading/Building Inspectors shall verify conformance with the plans during construction.

