

Villalobos, David

From: Steven Zeluck [s_zeluck@yahoo.com]
Sent: Monday, January 30, 2012 12:20 PM
To: Villalobos, David; Dan Blough; Michael@igsb.com; Brown, Cecilia; mebrooks@sbceo.org; Russell, Glenn; Tuttle, Alex; McCurdy, Alice
Cc: Steven Zeluck
Subject: Park Hill Estates v2 - Steven Zeluck, part-owner

Categories: Purple Category

Monday, January 30, 2012

Commissioner Brown, Commissioner Brooks, Commissioner Cooney, Commissioner Valencia, Commissioner Blough and Dr. Russell:

In light of the mistake in judgment that occurred at Wednesday's hearing I must respectfully voice my comments to you with both alarm and consternation. I speak to you as a part owner of this land that I received as an inheritance from my mother. Mr. Nelson's project is fully within the law, conforms to the neighborhood in every way, has had an extensive biological survey done, a mitigation plan agreed to, and meets State requirements. An EIR in whole or in part, is not warranted by the findings and is a very inflammatory direction for this project to proceed in. I am searching my mind to try and find a legitimate justifiable reason for Wednesday's errant determination but am not able to do so, so I am left to believe it represents a succumbing against best judgment to neighborhood pressure in a charged atmosphere, in spite of the scientific and legal evidence that this project meets all current requirements. Commissioners, I respectfully request a revote on this matter based on the evidence produced by the experts at Planning. The experts on these matters in the Planning Department have determined that this project is appropriate as a MND based on their extensive scientific research and analyses.

At to the hearing itself, I have never before seen a debacle unfold with such a devastating potential to my own future, as an EIR is a real threat to what I anticipated would be a comfortable retirement and to what I believe is a beautifully appropriate project for the site. I am a working person and not wealthy capitalist so this project's success is key to my future, but if I thought for one instant that this particular project was not good for Park Highlands in particular, and Goleta or Santa Barbara generally I would not be writing this letter to you.

To briefly repeat my family's history in the area, we are not foreign interlopers, and developed a deep connection with the people and the place. I attended San Marcos, SBCC and UCSB, my sisters attended La Colina and San Marcos. My parents, Lou and Charlotte, were deeply committed to Santa Barbara and the preservation of and enhancement of its lifestyle and its beauty. They took great interest in the lives of the people in the community and devoted themselves to Santa Barbara in a way that few residents do. Both were involved in local government service, my father with the Transportation Board and my mother on one of the city commissions. They were known and respected by everyone because everyone knew they were not thieves or robber barons but decent human beings who cared very much about everybody's quality of life. The Park Highland community welcomed us. And we gave back to the community.

We purchased a home on Via Orquidea, enjoyed it immensely and were always pleased to welcome newcomers into the neighborhood and into our home. The new residents and their homes never affected our quality of life and our safety one iota. The lots are so large up there and the homes large too, and everyone has a lot of privacy. Living across from future Park Hill Estates' land my father envisioned a beautiful project there and so purchased the property with his friends and partners. He had no issue in creating new living dwellings for both residents and new arrivals to the community and viewed his activities as both a livelihood as well as a community service. I recall my mom bringing fruit baskets to new residents and how she took pleasure in meeting the new Park Highlanders.

What has happened since then is the attitude of some of the residents has changed into intolerance, unfriendliness and outright hostility to what is new, and that was made clear at Wednesday's hearing. These are supposed to be high class, sophisticated people, the type of class that comes with affluence. That sort of class was nowhere to be found. Instead -- and I am not pleased to say this but must -- is that what I witnessed seemed to approach a mob mentality. One or two of the neighbors actually called the integrity of the Planning Commission itself into question. Review the tape of the proceedings and you will verify this. The majority of the neighbors were clearly exhorting the Commissioners to call for an EIR, -- each one of them was very well coached to do this -- after all the time spent and work done by the County, completely disregarding and showing contempt for the hundreds of man-hours and the conclusions in the MND. The EIR path is to some of them undoubtedly the only way that this developer will give up and go home because the fight is too

great and the time element too lengthy and I suspect they have the additional hope that any subsequent developer will be put off by this so as not to take any interest in developing the land. An EIR I believe stigmatizes the land. I think a much better way for all is through mediation, and through cooperation and compromise with Mr. Nelson.

Commissioners, with all due respect and as a former fellow Santa Barbaran, this land does not warrant an EIR, not in 1997, not in 2007, not in 2012. It is wrong and counter-productive to require one, even a partial EIR. I must respectfully ask that do not you think 40 years is long enough and that five years of planning is long enough or that an 80 page MND is long enough? Respectfully Commissioners, where else can you find six acres of mitigation at Cheadle Center?

One neighbor brought up her fears about who the resident in the affordable home will be. Why is she so very afraid of a renter in affordable housing? I have been a renter all my life and believe me you would want me as your tenant and there are many great tenants out there and the neighbors need not live in fear of a non-owner if the property manager does their job in screening applicants.

Equally troubling is the video that was permitted to be screened at last Wednesday's hearing featuring a teenage boy in a tie dye shirt seated in a Buddha-like posture and of a Park Highlands tenant who gave, to my mind, every appearance of being under the influence of a hallucinogenic type substance, was extremely ill suited for such a forum, and it left me wondering why such a video was not pre-screened for its appropriateness. Please review the tape of the hearing and see this for yourselves. And to make matters more abhorrent Mr. Nelson was not permitted to make any further clarification or comment after that video was shown, if memory serves correctly. So at the last an element of black comedy was introduced in the hearing that I found to be completely inappropriate and seriously disturbing.

Everyone knows that fire is an issue for Santa Barbara; this is not to be denied. But up until 1990 fire codes were much more lax than they are now. It seems hard to believe today, but back then shake roofs were allowed on the homes. Of course that is not permitted today and the landscaping requirements have also changed to what is fire safe. As Mr. Nelson said, new hydrants have also been put in. I am sure there have been other fire safety improvements instituted as well to avoid a repeat of the 1990 fire. As to the Painted Cave fire itself, that was an arson fire, where an incendiary device was found, and the offender brought to justice. The fire of 1990 was not an act of nature, and would not have occurred but for the actions of a criminal seeking vengeance on an adjoining landowner with whom he had a dispute. Arson can strike at any time, anywhere, and it is something everyone fears, and I am speaking about myself as a resident of San Francisco now, as we had such an incident around the corner from my apartment.

There have been arson fires here and it is a most fearful crime. It is a major felony and in that sense the Park Highlands community homeowners and other residents were crime victims in 1990. I understand from personal experience that it is hard and perhaps impossible to erase the effects of being victimized at the hands of a criminal. But life must go on, and it does. And being the victim of a crime doesn't give an individual or individuals permission to then recklessly endanger the future hopes and plans of others by creating fears or invoking images of a reoccurrence of the Painted Cave fire.

A current fire danger may exist at Park Hill Estates land in its present state, since it is open grassland that gets dry during the summer, even though it is kept short in accordance with fire department rules. This is another of my ongoing fears and worries, namely that a fire will start in the current state of open grassland. One incident has occurred already as Mr. Vickers may be able to describe to you. Fire safe homes instead of the open grass will pose a greatly reduced fire risk to the neighborhood. This is plain for all to acknowledge since it is a widely known fact tinder dry grass burns rapidly as opposed to the fire retardant materials used to construct the modern home, with its interior sprinkler systems, fire extinguishers, and much else to combat ignition.

As to egress routes, in response to a question by Commissioner Cooney, the Fire Marshall clearly said at the hearing that there is the north egress route for any fire danger from the south, and the Via Los Santos egress route from any danger from the north. I certainly think that the road down through Tucker's Grove could be used as an additional one way egress route out in times of emergency, so that in effect there will be three egress routes out. It would be quite easy for the San Antonio Creek Homeowners Association to adopt fire egress procedures in conjunction with the fire department, and conduct evacuation drills, much as we all attended fire drills at school.

Our theaters and civic areas in San Francisco are much more crowded in case of fire, but residents here have great confidence in our fire departments' abilities. Do you not have faith in your firefighters? I am sure that you do. You have fabulous first responders in your area, perhaps the best there are in the State. The fire marshal – I'm sorry, I don't recall his name at this time -- explained things very clearly about how the project complies with current law even without the Tuckers' road egress route. It is unreasonable to ask for more analysis on fire when the fire marshal said the project complies with the current law. Respectfully, why should there be further analysis if the expert who understands the area in terms of fire fighting requirements better than anyone clearly and without qualification said the project is in compliance? That this occurred is deeply troubling for me as a part owner and a reasonable person.

At Wednesday's hearing one of the neighbors said that average number of cars each home has is three and that there's not enough room on the road for all those extra cars during an emergency. But who in their right mind would want to drive their three cars out of the area during an emergency? In an emergency one grabs their pets, their family photos, and gets out. No-one drives three cars out in such a scenario. And in fact the fire department would certainly not allow that. This is another instance where a fictional situation seems to be put forth as fact, and fact put forward as fiction or not considered at all.

About the grasslands and the botany of the site, I have complete faith in Ms. Mooney's evaluation. I know Melissa Mooney's work well and how scrupulous she always is, since she did the biology for the County for one of our sold properties up in Vandenberg Village and in that case as in this one imposed numerous restrictions and conditions on our buyer. I have never resented her high standards in spite of the fact that the conditions had a serious negative financial consequence for me. I did respect and abide by her judgment since her judgment was honest and sound and based on scientific training. My conclusion is that she is an incredibly gifted biologist and the County should be pleased and consider itself lucky to have her services, and not to second guess her conclusions.

Any EIR or partial EIR, with all due respect Commissioners, seems to question both Ms. Mooney's credentials and that of the other County staff. I am certain that is not the relationship that is desired between the Commissioners and the Planning staff, that the Commissioners second guess the Planners. The County Planning staff is a group of bright, committed and highly ethical young and not so young professionals who are a credit to Santa Barbara government, and have a very good grasp of what they do, and do it with dedication. They have worked long and hard on this project, have gone back time and again, reviewed and re-reviewed their own work, but now that effort is without real justification called in question based on what are in my opinion the pedantic obfuscations and micro-dissections of the neighbors' hired biologist. He asserted that sampling was only done at one time of the year. Ms. Mooney refuted this claim by pointing out that samples were conducted at various times of the year, in different seasons, and in different areas on the site. Please look again at the video of the proceedings and you will be able to verify this.

Commissioners, with all due respect, It is highly reasonable to believe that objective professional biologists who have a chance to review the County's biologists work on this project would back it up as a very thorough and comprehensive research into the land that has reached the correct conclusions and required the right grassland mitigation measures as outlined in the MND.

Commissioners, I ask you respectfully and with earnestness, why should there be a reliance on the inaccurate claims of the hired biologist when they were refuted at the hearing by the County biologist who did extensive work on the land that was peer reviewed already? Viewing this happen at the hearing troubled me deeply as well.

The ongoing story of Park Hill has taken and is taking a toll on my health. Besides the countless sleepless nights and the constant distraction from work, this ordeal has had serious consequences on my health. After one of the continued hearings in December I suffered heart palpitations, sweating, dizziness and nausea and was taken to the emergency room at 12:00 a.m. where I was eventually diagnosed with an anxiety attack. But for a while the doctors believed I may be about to have a heart attack and that my life was in danger. This was an extremely frightening experience. Additionally, for three weeks prior to the hearing on the Wednesday the 25th I was experiencing extreme dyspepsia unlike anything previous and was unable to work at my living. Being that I am an in-shape healthy 59 year old man these health issues should not be happening to me and were not caused by any pre-existing conditions. The ongoing stress and periodic shock of this oft delayed process has been a dark cloud over my life in my prime years. I ask that you do what you can so that I and my loved ones do not end up as victims of this process after so many intelligent people have worked so hard for so long to craft a Mitigated Negative Declaration that makes sense in all aspects and is in conformance with the Eastern Goleta Valley Long Range plan.

The neighbors, who already live in comfort and luxury in a beautiful area but wish no others to also enjoy the same anywhere near them -- and Commissioner Valencia spoke as to the beauty of their homes -- are not the victims they characterize themselves to be, nor are they future victims should Park Hill Estates v2. go forward. How would they be victimized by this project as it stands? Their views would remain substantially the same since the site slopes downward, except the neighborhood fire danger would be reduced since the tinder dry field would no longer be there but replaced with fire resistant homes, the views along San Antonio Creek Road would become better, pedestrian walkways would remove some of the dangers of walking along that road -- and I can attest to those dangers since I walked many times along San Antonio Creek Road. The neighbors characterize themselves as potential victims of this project. That is 100% the reverse of what is really the case. With lots that large, and with homes that private, their lifestyle could not possibly be impacted in a significant way by this project. If there is a view issue with Lot 10, then I feel certain there is a solution to that issue at hand with minimal effort in a spirit of cooperation and compromise.

What I witnessed on Wednesday last was a display of childish immaturity by the neighbors that reflected poorly on themselves, who they are, and what their values are. Commissioners, please verify this immaturity by reviewing the hearing video. I do believe what I saw was the resistance of elderly people to any change in their surroundings, without regard for the consequences of their actions on others.

The real victims of a failed project here will be myself, who will find his retirement funds never to materialize according to the hopes and wishes of my mother, my significant other, and my dear friends, all of whom will be impacted financially, emotionally and psychologically by a failed project.

Mr. Nelson's project is a very beautifully planned, as Commissioner Cooney said "beautiful homes", that will epitomize the latest in safety features, enhance the hillside and eliminate an ongoing fire hazard in the middle of the community, that will respect the native species based on the long and thorough research of the County, that provides an excellent mitigation plan which can serve as an educational tool for student biologists and that the Cheadle Center leadership is most enthusiastic about. Being that the project is planned to be of green design in a simple yet luxury format, Park Hill Estates will certainly enhance the property values of the adjoining neighbors, not detract from them as they are claiming without substantiation. I have a suspicion that what the neighbors perhaps really are concerned about is that their homes may have a dated and old-fashioned appeal once these new homes are built. But they need not worry about that at all, since the homes conform to theirs in the more basic aspects of lot size, basic design and square footage. As someone who has worked as a Realtor in the past, my professional opinion is that the effect of the project will overall increase the neighbors' property values or be neutral to those values.

Honorable Commissioners, for the sake of everyone and what is fair, I ask that the partial EIR decision be modified and that everyone please use the mediation process to do whatever they can to resolve disagreements and points of contention. By working together, this overly long process can finally end, a larger conflict be avoided, and everyone can move on to bigger and better things. Commissioners, Park Hill Estates v2 is in fact a substantial improvement to the locale that deserved approval on Wednesday and deserves approval in the future, without the need for an unnecessary and humiliating EIR or partial EIR with further delays, and redundant reviews that will result in extending the process needlessly and will require the expenditure of more County and developer funds.

After 40 years a very beautiful, safe and enhancing project has been painstakingly crafted and that fact should be a cause for celebration and enthusiasm. The honest efforts have gone into the design of this project over the past two years must not and should not be voided and made useless. Please set things on a path to the resolution of Park Hill Estates v2 according to what is fair. Please set things right and so that no one is victimized in consequence.

Honorable Commissioners, thank you for your patience, your interest and understanding in this important matter of fairness. I am speaking on behalf of myself only and not on behalf of any other individuals or organization. This is a matter of great personal concern.

Thank you.

Respectfully yours,

Steven Zeluck
San Francisco, CA

part-owner
4700 Via Los Santos

FROM: JIM WESTBY

Park Hills Estates 06TRM-00000-00001 & 06RDN-00000-00001/
Findings, Page A-3

this staff report dated April 6, 2007.

2.2.3.2 *The design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.*

As discussed in the policy consistency section of this staff report (section 6.2 incorporated herein by reference), the map is consistent with the County's Comprehensive Plan with the incorporation of conditions of approval identified in this staff report dated April 6, 2007

2.2.3.3 *The site is not physically suitable for the type of development proposed.*

The site is physically suited for the proposed residential development. The site is surrounded by existing residential development. The main site constraints for development include the presence of native bunchgrass (which will be addressed by the grassland restoration program required by project conditions), the bedrock mortar (which will be protected in place by restrictions on activities within 10' of this feature), the potential for substantial quantities of cobbles and boulders to be encountered during grading activities (which will be addressed by project conditions on grading, stock-piling and import and export of soil/rock material during grading activities), and the open space views provided of and through this last large undeveloped property in the San Antonio Road mesa area (which will be addressed by project conditions which guide the design and maximum square footage of development for each lot). The project site in a predominantly developed, semi-rural neighborhood is physically suitable for the type of development (12, one-acre residential lots and 1 open space lot) that could be developed on-site pursuant to project conditions of approval. The project conditions of approval would ensure that the type of development would be suitable for this particular site.

2.2.3.4 *The site is not physically suited for the proposed density of development.*

The 14.36-acre project site's zoning of 1-E-1 would potentially allow for up to 14 single-family residential lots. However, this subdivision would include twelve, 1-acre residential parcels and one, 2.2-acre open space parcel. The open space parcel includes critical project components including the on-site storm water retardation basin, the second access road, native bunchgrass restoration, and a remnant foraging area for birds of prey. The site would not be physically suited for the maximum density allowed by the site's zoning (14 single-family homes) due to site constraints. However, the site is suitable for the proposed density of development (12 single-family homes), with incorporation of the necessary features provided by the designated open space lot and subject to the project conditions of approval.

2.2.3.5 *The design of the subdivision or the proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.*

As discussed in 06ND-00000-00028 incorporated herein by reference, the project would result in significant cumulative impacts to wildlife habitat. Significant and unavoidable impacts resulting from loss of foraging habitat for raptors, including, but not limited to white-tailed kites, has been identified. The project open space lot will be used for retardation basin and this same area plus additional rear yard areas (fenced from the rest of the residential lots) will be used as a contiguous native grassland restoration area providing permanent dedicated open space, mitigating the native grassland impact to less than significant levels and partially mitigating the impact to raptors, which mitigates these impacts to the maximum extent feasible. To the extent that the impact to raptors remains significant, the Board of Supervisors in adopting the Goleta Community Plan, acknowledged

1-25-12

FILE COPY

JANUARY 24, 2012

COUNTY OF SANTA BARBARA PLANNING COMMISSION

re: PARK HILL ESTATES
4700 VIA LOS SANTOS
SANTA BARBARA, CAL., 93111

DEAR PLANNING COMMISSIONERS,

MY PROPERTY AT 1010 VIA LOS PADRES, BORDERS LOT 11 OF PARK HILL ESTATES. I AM TOTALLY AGAINST THE DEVELOPMENT AS PLANNED FOR THE FOLLOWING REASONS: THE HEIGHT WOULD VIOLATE OUR PRIVACY, TAKE AWAY SUNLIGHT AND THE MOUNTAIN VIEWS WE HAVE ENJOYED SINCE 1986. ADDING TO THE EXISTING GRADE 13 FEET PLUS A HOUSE WOULD HEIGHTEN THE GRADE CLOSE TO 30 FEET. FROM MY HOUSE IT WOULD BE LIKE LOOKING AT A "BLOCK WALL." THERE IS ALSO THE EVACUATION PROBLEM IN THE EVENT OF ANOTHER WILD FIRE. DURING THE PAINT FIRE IT TOOK TIME TO FINALLY REACH SAFETY. THERE HAVE BEEN OTHER CLOSE CALLS IN THE PAST THREE YEARS, WITH BEING ORDERED TO EVACUATE OUR HOMES. THERE IS A NATURAL DRAINAGE CANAL THAT WITH A PROPER SWALE COULD DISCHARGE ANY RUNOFF. ALL THE PLANTINGS NATIVE AND OTHERWISE MAKE THE SITE A JOY TO OBSERVE. I WOULD APPRECIATE YOUR DENIAL OF THE PROJECT AS SUBMITTED. THANK YOU.

SINCERELY,

Clara DeHoog
CLARA DEHOOG

RECEIVED

JAN 24 2012

S.B. COUNTY
PLANNING & DEVELOPMENT
HEARING SUPPORT

Villalobos, David

FILE COPY

From: Regina Magid [SoldAtReginaMagid@cox.net]
Sent: Tuesday, January 24, 2012 4:35 PM
To: Villalobos, David
Cc: Almy, Anne; Tuttle, Alex; Danny and Mary Vickers
Subject: PHE Development

Categories: Prof Misc

SEARCHED
SERIALIZED
INDEXED
FILED
1
1-25-12

Mr. Villalo,

Is it still possible to add this letter (below) from one of our neighbors to tomorrow's PHE Hearing material? Thank you!

Regina Magid
SAC Neighborhood Safety Representative

January 23, 2012

Members of the Planning Commission

Re: Park Hills Estates

RECEIVED

(JAN 24 2012

S.B. COUNTY
PLANNING & DEVELOPMENT
HEARING SUPPORT

Dear Planning Commissioners,

I live off San Antonio Creek Rd. in a house that burned to the ground 21 years ago during the Painted Cave Fire

Anybody who went through such an experience cannot forget it, for the scenario was akin to that of Dante's Inferno.

Competing for an exit to flee the flames is a horrendous experience. In addition, your car can stall due to the air contamination and the gasoline tank can explode in your face.

I find that allowing 16 more homes to be erected before supplying adequate fire exits is utterly irresponsible.

After the Painted Cave Fire I had to evacuate several times (Tea, La Brea, Sedgewick, Zaca, Jesusita Fires).

And on top of all this the County is considering allowing the developers to still increase the number of homes to be built, thus, the competition when the time will come to save our skins!

I believe that SB County Planning Commissioners are well intentioned, but ill-advised.

I'd strongly recommend that the whole project be revised in order to provide adequate fire escapes for us, the existing residents, before more neighbors move-in.

When fires rage and we are desperate to locate the main artery in the neighborhood to flee, we should be able to find a safe escape, and that can only be provided by public works.

A clever government protects its citizens by planning ahead.

Please do something effective before it's too late. You have the means and the resources.

Thanks!

Alicia Koppel
4609 Via Gennita
Santa Barbara, CA
93111-1324

FILE COPY

To: Santa Barbara County Planning Commission
Subject: Proposed Park Hills Estates
From: Nancy and Michael Sheldon, 1014 Via Los Padres

While we agree with many concerns expressed about density, parking, and emergency access, our primary issue is Lot 10 and its impact on our and neighboring homes. The dramatic amount of landfill this lot requires to allow for a gravity-flow sewer creates a massive and obtrusive house overlooking my home and my neighbors. It will greatly diminish the amount of sunlight we receive in the morning and completely ruin the feel of our neighborhood. The home will be in plain view from every window in our home and most of the yard. We will be living in a fish bowl.

Our thoughts can be summarized as follows:

- 1) The Mass, Bulk, and Scale of the proposed lot 10 is destructive to neighboring properties.
 - a. We would ask that you give serious consideration to keeping lot 10 at its natural topography and allowing pumping sewage up the grade for this one lot. If the grade were not changed and the house is stepped down the hill (as agreed to in the 2007 design standards as part of the 2007 plan) this would *significantly* improve the impact to neighbors.
 - b. We would ask in addition that you limit the height of the structure to 18 feet, (also in the 2007 design standards) or at a bare minimum require that the height of the house average 18 feet, with the sides of the house nearest the neighbors be kept to less than 18 feet.
- 2) Allow hedging along the western edge the development. Native plants are not going to conceal houses of the proposed scale even if lowered and/or cut into the hill. Please allow a hedge of approximately 16-25 feet (depending on outcome of [1] above) to be planted on the western side of the development.
- 3) Landscape Easement - We do not know if it is within your power to add this to the conditions of approval, but we would ask (however possible) that you support a 20-25 foot easement along the border of our property that we would could use with the developer to push the hedge away from our house.

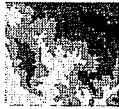
We have one final thought - If using a pump for the sewage is not allowed we ask the following question - given the need for so much fill, and the dramatic changes it will have on the surrounding homes, is this actually a viable lot or should it be open space?

We believe the requests above to be very reasonable and hope you can support us in getting them fulfilled. Having just been through the planning process for a different house we fully understand how difficult that process can be and we want to be able to support positive development in our area.

Nancy and Mike Sheldon

JAN 24 2012

S.B. COUNTY
PLANNING & DEVELOPMENT
HEARING SUPPORT



Watershed Environmental, Inc.
 1130 E. Clark Avenue, 150-179, Orcutt, CA 93455
 Phone (805) 876-5015 | Fax (805) 456-3987
 www.WatershedEnvironmental.com

SEARCHED _____
 INDEXED _____
 SERIALIZED _____
 FILED _____
 DATE: 1-25-12

Mr. Alex Tuttle

Santa Barbara County Planning & Development
 105 E. Anapamu Street
 Santa Barbara, CA 93101

FILE COPY

RECEIVED

(JAN 23 2012)

January 23, 2012

S.B. COUNTY
 PLANNING & DEVELOPMENT
 HEARING SUPPORT

Re: Park Hill Estates Project – Response to David Magney’s Comments

This letter provides a response to comments made by David Magney in his December 1, 2011 Park Hill Estates Proposed Final MND v.2 (10TRM-00000-000001) letter. I am responding specifically to Mr. Magney’s comments on the vegetation surveys and reports that we (Mark de la Garza and Melodee Hickman) at Watershed Environmental prepared for this project.

First let me begin by saying that Watershed Environmental (Mark de la Garza and Melodee Hicman) have a long history of working on this property. Our first survey of this property was in March of 1998. The results of that survey were presented in a report titled *Botanical Inventory/Native Grassland Survey, 4700 Via Los Santos Road, Santa Barbara California*. We prepared an addendum to the 1999 report in October of 2002 the purpose of the addendum was to correct a mistake we made when we included native grasslands that existed on an adjacent parcel in our 1999 report. Our work in 2002 did not involve a site visit. The next time we did any field surveys on the property was in September of 2005 when we reassessed the native grassland on the property. We performed a two-hour survey of the property and prepared a letter report that concluded that the grasslands were essentially the same as they were in 1999. The next surveys we performed were conducted in August of 2010, the results of which were presented in a report dated October 25, 2010 titled *Vegetation Survey Park Hill Estates*. In summary, we performed vegetation surveys of this property in the spring of 1998, fall of 2005, and summer of 2010.

Mr. Magney’s comments question our survey methods and results and attempt to cast doubt on the accuracy of the work we performed, because of a few misspelled Latin plant names and omission of a few sub-species and variety names. Some of these are simply typographical errors, others involving the omission of variety and subspecies names for *Ambrosia psilostachya*, *Baccharis pilularis*, *Dichelostemma capitatum*, and *Eucalyptus globules* occurred because we followed the nomenclature in the Santa Barbara Botanic Garden publication *A Flora of the Santa Barbara Region, California* (Smith 1998). These errors and omissions had no impact on the report conclusions because there are no rare, threatened or endangered plant species on the property. The county biologist (Melissa Mooney) reviewed these reports and she understands that the science of botany is evolving in response to new genetic and taxonomic research. Mr. Magney in his 12/1/11 letter fails to point out that the scientific names for the following plants: *Hemizonia fasciculata*, *Gnaphalium californicum*, and *Gnaphalium canescens ssp. microcephalum* have all recently been changed from the names published in the 1993 *Jepson Manual of Higher Plants* and the 1998 *A Flora of the Santa Barbara Region, California*. In order to avoid confusion, I choose not to change the scientific names of plants whose names have changed since we did our original work in 1998. During the preparation of the October 25, 2010 report, I noticed that I had duplicated two plants in the table of vegetation observed, because I had used the newer scientific plant name and I had also retained the older name. I corrected this error by deleting the duplicates from the table (keeping the names used in the previous reports) but I failed to correct the species counts on Page 6 of my report. I apologize for any confusion this may have caused. The correct number of vascular plant species observed

on the property is 87, 51 of which are introduced species and 36 are native. This counting error in no way effects the report conclusions.

Lastly, I would like to respond Mr. Magney's assertion that he found 59 different species of non-vascular plants during his 1997-98 botanical surveys of the Bridal Ridge project site and that non-vascular plant surveys need to be performed on the Park Hill Estates property. The Bridal Ridge project is the property that is now known as the Preserve at San Marcos. The County biologist (Melissa Mooney) and planning commission members Michael Cooney, Joe Valencia, and Daniel Blough may recall that Mr. Magney made similar claims during the environmental review of the Preserve at San Marcos project. In response to Mr. Magney's claims, the County of Santa Barbara conditioned (Condition No. 23) the Preserve at San Marcos project to hire a qualified lichenologist to survey the boulders on the 177 acre Preserve at San Marcos property and determine if any sensitive lichen species were present, and to prepare a boulder removal and relocation plan if any rare or sensitive lichen species were found. Watershed Environmental was the applicant's biologist for the Preserve at San Marcos Project, in 2006 we retained the services of Mr. Kerry Knudsen, Lichen Curator, for the Herbarium, Department of Botany & Plant Sciences, at the University of California, Riverside. Mr. Knudsen performed a survey of the Preserve at San Marcos development areas and found 37 lichen species, none of which were considered endangered, rare, or threatened. Mr. Knudsen went on to state that he "observed none of the lichens that David Magney listed as occurring or expected on the 377 acre property. Indeed, according to the current scientific literature, many of the lichens Mr. Magney cited, such as *Acarospora extenuata* and *Dirinaria picta*, are not even considered to occur in California. Other lichens he mentioned are well known not to occur outside of a narrow belt along the immediate shoreline and thus would be unexpected in the Preserve at San Marcos Project area". I (Mark de la Garza) have enclosed a copy of Mr. Knudsen's March 1, 2006 Preserve at San Marcos Lichen Survey report, for the County staff and planning commission to consider, as they decide how much credence to give Mr. Magney's assertions during the Park Hill Estates environmental review process.

As a consulting biologist with over 25 years of experience working in Santa Barbara County, I strive to be as accurate as possible given the time and budgetary constraints that I have to work with. Prior to performing the botanical surveys for the Park Hill Estates project, I spoke with the County biologist (Melissa Mooney) to ensure that the work we performed would provide the County with the information they needed to perform their environmental review as required by the California Environmental Quality Act. It is my understanding, that we (Watershed Environmental) performed the Park Hill Estates botanical survey work to the satisfaction of the County Planning and Development Department. The few errors that we made in our 2010 report were minor in nature and in no way affect the report results, conclusions, or the County's environmental review process. If you have any questions regarding the contents of this letter please give me a call at (805) 729-1070.

Sincerely,



Mark de la Garza
President/Watershed Environmental

cc: Melissa Money
Jeff Nelson

Attachments: 3/1/06 Lichen Survey of Preserve at San Marcos Project

Lichen Survey of Preserve at San Marcos Project

Date: March 1, 2006

Prepared by: Mr. Kerry Knudsen, Lichen Curator, The Herbarium, Department of Botany & Plant Sciences, University of California, Riverside, CA 92521-0124.
kk999@msn.com Ph: (951) 827-3601

Project Area and Survey Methodology

The scope of this lichen survey was limited to surveying the two proposed landscape development areas (LDEs) and associated access roads known as The Terrace and The Meadows (totaling approximately 50 acres) at the Preserve at San Marcos. This work was performed by myself (Kerry Knudsen) as an individual professional lichenologist (not representing the University of California) under contract to Watershed Environmental.

Mark de la Garza and Melodee Hickman of Watershed Environmental (WE) assisted my survey at the site on October 27, 2005. WE provided GPS coordinates for the development envelopes that were obtained from L&P Consultants, registered surveyors. Ms. Hickman programmed the GPS coordinates into a handheld Magellan Explorist 300 GPS unit to identify the boundaries of the development envelopes on The Terrace (western) portion of the project. The GPS unit was not utilized on The Meadows (eastern) portion of the project, as a visual survey of the meadows site did not identify any rocks, vegetation, or soil containing lichen species.

Findings

The only lichens observed in the study area occurred on scattered sandstone boulders in The Terrace LDE and along the access road leading up to the terrace. No lichens were found on the vegetation or soil within the Terrace study area. Thirty-five rock samples containing lichens were collected, scientifically vouchered, and deposited in the Herbarium at the University of California at Riverside. Two sterile and common species of *Aspicilia* were observed, but no sufficient material was found to collect. Altogether, 37 lichen species in 17 genera were observed or collected. *Dimelaena radiata* (Tuck.) Mull. Arg., a common coastal crustose lichen, dominated the site with *Xanthoparmelia mexicana* (Gyel.) Hale, a common foliose lichen. Other lichens at the site ranged from common to uncommon, their relative numbers limited by available rock space and competition or environmental factors such as aspect.

The most distinctive feature of the lichen flora of the sandstone boulders present in The Terrace is aesthetic. Many of the boulders observed have a beautiful mosaic of orange- and yellow-hued *Caloplaca* species, dominated by *Caloplaca impolita*.

Evaluation

It should be noted that because of the scarcity of lichen collections and collectors in California and most of North America, data sets, vouchered in herbaria, of lichen distribution are not themselves evidence of rarity or abundance. Nevertheless, according to CEQA standards, I can confidently state (based on my own survey and on a thorough search of the relevant scientific literature) that there are no lichens at this proposed development site that can be considered endangered, rare, or threatened.

Furthermore, I observed none of the lichens that David Magney listed as occurring or expected on the 377 acre property. Indeed, according to the current scientific

literature, many of the lichens Mr. Magney cited, such as *Acarospora extenuata* and *Dirinaria picta*, are not even considered to occur in California. Other lichens he mentioned are well known not to occur outside of a narrow belt along the immediate shoreline and thus would be unexpected in the Preserve at San Marcos Project area.

Conclusion

There are no endangered, threatened, or rare lichen species in either The Terrace or The Meadows proposed PSM development areas or associated access roads. Therefore, the development, implementation, and monitoring of a boulder removal plan, as required by County Permit Condition No. 23 if sensitive lichen species are present, is unnecessary.

Sincerely,

Kerry Knudsen
Lichen Curator at The Herbarium
University of California, Riverside

List of Lichen Species Observed during the October 27, 2005 PSM Survey

1. *Acarospora obnubila* H.Magn. 4288.4, 4276. Common crust of western North America.
2. *Acarospora obpallens* (Nyl.) Zahlbr. 4266. Common crust across southwestern North America to South Carolina and Virginia.
3. *Acarospora robinae* Knudsen. 4284, 4256, 4248, 4268.2, 4298.1. Newly described coastal crust; Santa Cruz Island and along the coast from Santa Barbara to Baja Sur.
4. *Acarospora socialis* H.Magn. 4269.2, 4264.1. Most common species of this genus in southwestern North America.
5. *Aspicilia* sp. 4288.2. Occurred on most rocks at site, but as small, often sterile part of rock crust community. Taxonomy at species level currently being revised. Besides this species, two others observed; all three common throughout southern and central California.
6. *Buellia badia* (Fr.) A. Massal. 4249, 4268, 4262.1, 4264.2. A parasite on other lichens; abundant at site. Common but localized throughout North America and Europe.
7. *Buellia dispersa* A. Massal. 4287. Common crust of North America and Europe; uncommon at site.
8. *Buellia punctata* (Hoffm.) Massal. 4275. *S. lato*. Crust on rock found both inland and near coast in southern California. Very common on bark of trees and shrubs throughout most of North America.
9. *Buellia sequax* (Nyl.) Zahlbr. 4290.1, 4265.2. One of most common crusts in southern California, but rarely collected.
10. *Buellia tessellata* Korber. 4288.3, 4260.3. Abundant at site; common along coast.
11. *Caloplaca bolacina* (Tuck.) Herre. 4251. Common at site; abundant along coast.
12. *Caloplaca brattiae* W.Weber. 4294.2. Coastal crust of California; uncommon at site, which is beyond its normal inland limit.
13. *Caloplaca epithallina* Lyngé. 4274. Common but overlooked crust of North America; parasitic on other lichens.
14. *Caloplaca impolita* Arup. 4296, 4294.1. Common coastal crust; abundant at site.
15. *Caloplaca nashii* Nav.-Ros. 4295. Common but undercollected North American (Southwest) crust; uncommon at site.
16. *Caloplaca subsoluta* (Nyl.) Zahlbr. 4258. One of most common *Caloplaca* in North America, although rare at site.
17. *Caloplaca verruculifera* (Wainio) Zahlbr. 4297, 4273. Common along the West Coast of North America, from the Santa Monica Mountains in Ventura County to Canada.

18. *Candelariella vitellina* (Ehrh.) Mull.Arg. 4296.1. Common throughout North America, although uncommon at site.
19. *Dimelaena californica* (H.Magn.) Sheard. 4280. Parasite specific to its host, *Dimelaena radicata*; most common lichen on rocks along coast of western North America. Not as common as host and not well known or often collected.
20. *Dimelaena radicata* (Tuck.) Mull.Arg. 4261, 4260.2. Most abundant lichen at site and along California coast.
21. *Lecanora dispersa* (Pers.) Sommerf. 4265.1. Common lichen of northern hemisphere; generally occurs in small amounts at site and generally uncollected.
22. *Lecanora muralis* (Schreb.) Rabenh. 4293. One of most common lichens in North America; abundant at site.
23. *Lecidea laboriosa* Mull Arg. 4292. Most common endolithic member of this genus in western North America; uncommon at site.
24. *Lecidella carpathica* Korber. 4269.1. Common in North America and Europe; uncommon at site.
25. *Lecidella asema* (Nyl.) Knoph&Hertel. 4285. Common coastal lichen; uncommon at site.
26. *Lichinella stipatula* Nyl. 4283. Common but overlooked cyanolichen; uncommon at site.
27. *Peltula euploca* (Ach.) Poelt. 4281. Common cyanolichen; rare at site.
28. *Physcia dimidata* (Arn.) Nyl. 4288.1, 4286, 4268.1. Common foliose crust of Europe, Africa, South America and North America; common at site.
29. *Placopyrenium zahlbruckneri* (Hasse) Breuss. 4272.1. Determined by presence of conidia; appears to occur in small amounts across southwestern North America; not well known and undercollected. Uncommon at this site, as at most sites, although not truly rare. Common species of this genus that also contains the truly rare lichen *P. heppioides*, an endemic known only from Topanga Canyon in Santa Monica Mountains in Los Angeles County and not collected since 1911.
30. *Rinodina grennarii* Bagl. 4293, 4262.2. Common lichen of northern and southern hemisphere coasts; common at site.
31. *Rinodina parasitica* H.Mayrh.&Poelt. 4272.2. Undercollected lichen of Europe, Mongolia, and western Northern America; easily overlooked and a parasite, especially on common *Aspicilia* species.
32. *Thelomma mammosum* (Hepp) Mass. 4298.2. Common on coasts of Europe and western North America; abundant at site.
33. *Verrucaria* #1. 4289. Genus currently under revision; appears to be common in moist microhabitats. Uncommon at site.

34. *Verrucaria* #2. 4282. Genus currently under revision; poor specimen could not be determined to species and was mostly sterile and uncommon at site.
35. *Xanthoparmelia mexicana* (Gyel.) Hale. 4271.2. One of most common foliose lichens on rocks in western North America and Mexico; abundant at site.

Villalobos, David

FILE COPY

From: SBBunnys@aol.com
Sent: Monday, January 23, 2012 12:07 AM
To: michael@igsb.com; Dan Blough; Brown, Cecilia; Villalobos, David
Cc: Almy, Anne; Tuttle, Alex; danny.vickers@cox.net
Subject: Park Hills Estates V2
Attachments: Blind corner 2.jpg; Emergency access road.jpg; Painted Cave Fire.jpg; Tuckers grove access.jpg; Jesusita day 3.jpg; Painted Cave 2.jpg

Categories: Prof Misc

January 21, 2012

SEARCHED
SERIALIZED
INDEXED
FILED
MEETING
DATE: 1-25-12

Dear Planning Commissioners,

I have a few comments regarding Park Hills Estates V2. I hope this letter is received in time to be entered into the record. I previously spoke about evacuations in the event of another fire. Obviously this is still my concern and I am hoping the commission can answer a few questions at the hearing. I have read the county code in regard to subdivisions in "high fire designated areas". Sec. 21-47. - Special fire prevention and suppression provisions. I am hoping the county can clarify why Jeff Nelson is allowed to have less street widths for Cozy Lane and Cozy Drive as required in the document? Perhaps there are other factors that I don't understand? The way I read this document each street should be at least 32 feet wide with a midline radius in the turn around of no less than 50 feet. Hopefully someone will clarify. As extra road room is vital during an emergency.

And lastly the emergency access road into Tuckers Grove Park is absolutely inadequate and cannot be considered a viable way out in a true emergency. This road is one lane and contains 2 blind corners. One side has a steep drop off into brush. At the bottom one will have to go through 3 barriers to finally navigate out of the park. The asphalt is in bad disrepair and breaking off the edge in many places. I have included photos I took today of my truck on this road. You can see only one vehicle can navigate this road at a time. I do not think a standard fire truck will fit at all. If Park Hills V2 is approved I hope the county will address these concerns and make this road a feasible exit for our neighborhood.

I have also included a few personal photos just to remind everyone that the threat of fire in our neighborhood is very real. Photos include San Antonio Creek Rd and the surrounding neighborhood engulfed in flames as seen from Rancho Del Mundo on the evening of the Painted Cave Fire. The remains of my fathers restored 66 mustang the day after The last photo was taken from my backyard around 6pm several hours before we received the reverse 911 on the evening of the Jesusita fire.

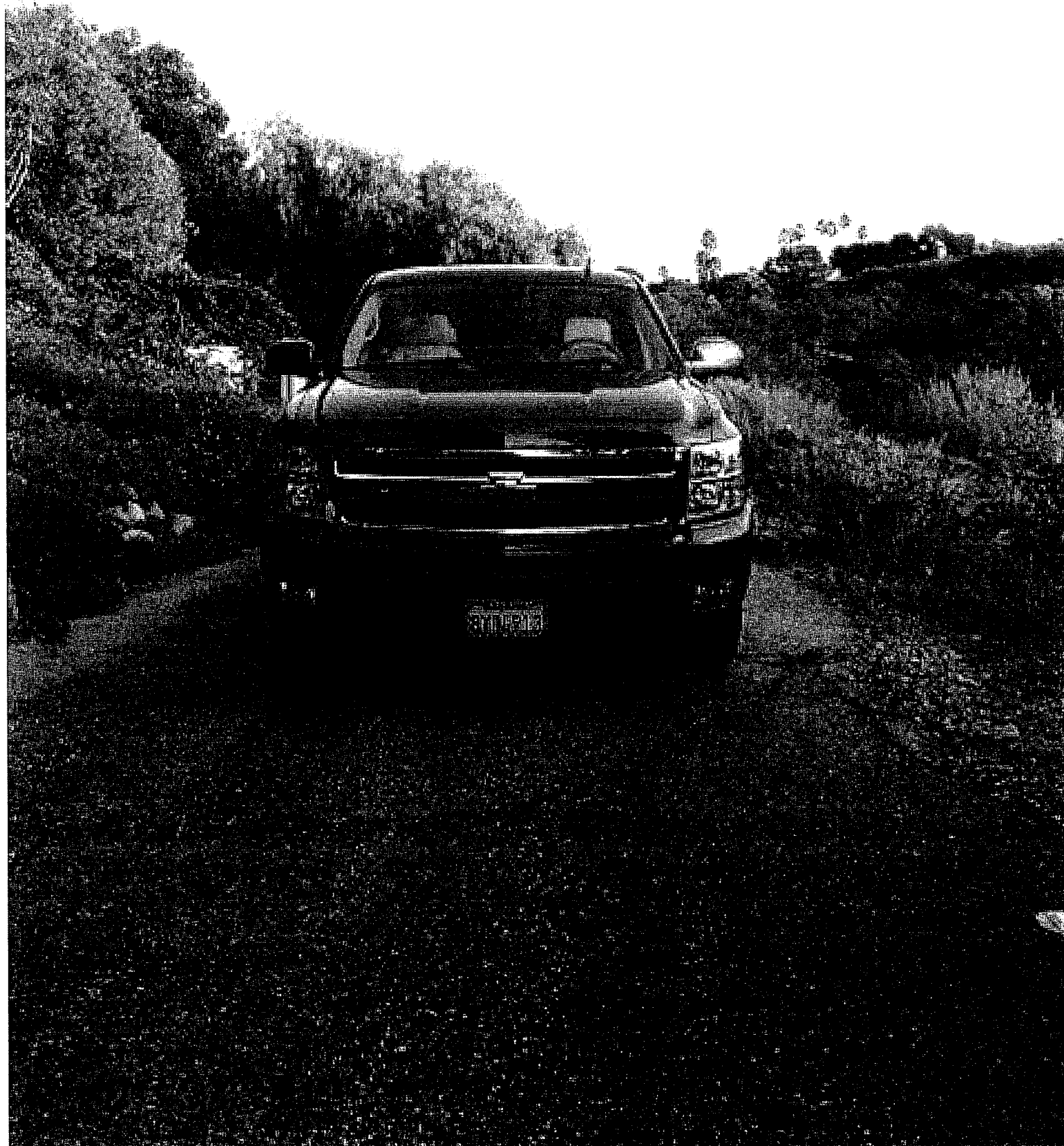
Sincerely,
Kendra Duncan
4691 La Espada Dr
Santa Barbara,

RECEIVED

JAN 23 2012

S.B. COUNTY
PLANNING & DEVELOPMENT
HEARING SUPPORT













Villalobos, David

FILE COPY

From: Danny Vickers [danny.vickers@cox.net]
Sent: Sunday, January 22, 2012 9:42 PM
To: Michael Cooney; Villalobos, David; Brown, Cecilia; Dan Blough
Subject: Park Hill V2 Planning Commission Jan 25 2012
Attachments: Response to PHE V.2 MND for Planning Commission January 25, 2012 by Danny Vickers.docx; Ltr to Alex Tuttle SBCountyP&D 7-18-11.pdf; Environ Report prepared by David Magney dated 12 2 2011.pdf; Letter from David Brown Channel Islands Chapter of Native Plant Society.docx

Categories: Prof Misc

Dear Commissioner Cooney:

In preparation for the Planning Commission meeting on January 25, 2012, I have attached the following letters:

1. My letter outlining the main issues that I would ask that the Commission consider when evaluating the Park Hills Estates MND V.2.
2. A letter from Graham Lyon, our attorney, outlining the material defects in the MND V.2 of assessing environmental impacts.
3. A letter from David Magney, our environmental consultant, commenting on the adequacy of the biological resource sections of the MND V.2.
4. A letter from David Brown, Chair of the Channel Islands Chapter of Native Plant Society, commenting on the adequacy of the biological resource sections of the MND V.2.

I appreciate your commitment to serving the community and I appreciate your consideration of the attached documents.

Sincerely,

Danny Vickers
President SACR HOA
4680 Pennell Road
Santa Barbara, CA 93111

THURSDAY
MEETINGS
DATE: 1-25-12

RECEIVED

[JAN 23 12012

S.B. COUNTY
PLANNING & DEVELOPMENT
HEARING SUPPORT

San Antonio Creek Road Home Owners Association

January 22, 2012

To: Santa Barbara County Planning Commission

From: Danny Vickers, President of the San Antonio Creek Homeowners' Association

Subject: Park Hills Estates V2

Dear Commission Cooney and fellow Commissioners:

The neighborhoods along San Antonio Creek Road and Via Los Santos respectfully request that you consider this information when deciding on the Park Hills Estates Plan. As we read the newspaper and participate in this planning process, we are reminded how difficult that your job is in balancing the interests of all members of the public. For reference purposes, I have attached a letter from Graham Lyons from Mullen and Henzell, our attorney, commenting on the adequacy of the 2011 MND. I will reference the Mullen and Henzell letter throughout this correspondence.

County approved a plan in 2007: The County approved a 2007 MND that staff, the applicant and the neighborhood reached consensus on after several years of communication and planning. We would hope that the Planning Commission would support that plan .

Bonus Density does not exempt project from CEQA: Mr. Nelson has argued that the state bonus density law gives him the legal right to increase the density over the 2007 MND. According to Mullen and Henzell, the state bonus density law does not give an applicant an exemption from complying with CEQA.

Environmental Finding in 2007 MND: The public cannot understand why the County is now supporting 16 homes when the County concluded in their 2007 MND Findings that the site would not be suitable for more than 12 residential lots. The actual language from the 2007 MND Findings is as follows:

2.2.3.4 The site is not physically suited for the proposed density of development. The 14.36-acre project site's zoning of 1-E-1 would potentially allow for up to 14 single family residential lots. However, this subdivision would include twelve, 1-acre residential parcels and one, 2.2- acre open space parcel. The open space parcel includes critical project components including the on-site storm water retardation basin, the second access road, native bunchgrass restoration, and a remnant foraging area for birds of prey. The site would not be physically suited for the maximum density allowed by the site's zoning (14 singlefamily homes plus accessory structures) due to site constraints. However, the site is suitable for the proposed density of development (12 single-family homes), with incorporation of the necessary features provided by the designated open space lot and subject to the project conditions of approval, including the 5,500 sq. ft. limit for all structural development per residential lot.

CEQA requirement for an EIR: According to Mullen and Henzell, under CEQA, an EIR is required if the record supports a fair argument that the project may cause one or more significant environmental impacts. The County's ruling in 2007 that the site cannot support more than 12 homes should be a reasonable argument alone to require further environmental review. Plus, dozens of neighbors have submitted hundreds of pages of testimony that there could be serious environmental impact in the area of biology, fire safety, traffic and public views. We cannot understand why the County is not requiring an EIR for this project.

Onsite Mitigation of native biology as required by County General Plan, Goleta Community Plan and CEQA: In the 2007 MND, the County concluded that onsite mitigation is feasible which is consistent with CEQA and the County's policy of favoring onsite mitigation. The 2011 MND states that onsite mitigation is not feasible which we believe is a violation of the County's policies and CEQA favoring onsite mitigation. Why is the County ignoring its own policies and its own conclusions from 2007? One of the reasons that the County required onsite mitigation was to protect the foraging areas for birds of prey which are very common in our neighborhood. The birds are there in greater number today.

Fire Evacuation Safety not sufficiently addressed: The County is basing its findings on an EIR that was developed 20 years ago for the Goleta Community Plan. We believe the conclusions from this EIR need to be revisited in light of the fact that our neighborhood has evacuated twice in the past 4 years for the Gap and the Jesusita Fires. At the minimum, we believe that the County needs to improve the Tucker's Grove exit to the South, needs to develop a La Riata exit to the North and improve the emergency response procedures. For the Jesusita Fire, many neighbors evacuated by 9:00 PM at about the time the fire entered our neighborhood even though the County did not notify neighbors until 11 PM to evacuate. We believe that there will be a significant impact to public safety if 32 to 48 more cars are added to our neighborhood under the current conditions.

Traffic Safety not sufficiently addressed: We believe that the County needs to address the concerns over traffic safety that currently exist in the neighborhood before adding another 32 to 48 cars from this project. When the public asks about what measures are being taken for traffic safety, the County's response is that the County's traffic thresholds do not trigger any action. Our concern is that it will take a fatality to warrant a serious look at improving safety in our neighborhood. Why can't speed limits be reduced, signs improved, hedges trimmed, speed bumps be considered and other traffic measures taken?

The analysis of biology onsite is not adequate: Attached is a letter from David Magney, environmental consultant and David Brown, Conservation Chair of the Channel Islands Chapter of the California Native Plant Society. Both experts believe that the MND fails to study what is currently on the property. Before the County allows the permanent elimination of native grasslands on the site, we request that there be more analysis. Mr. Magney also states that the MND fails to address the applicable Goleta Community Plan policies and CEQA that mandates onsite mitigation.

We realize that the applicant argues that he has done enough to address the neighborhood's concerns; however, for the above reasons, the neighborhood does not agree. Our neighborhood respectfully requests that the Planning Commission either require staff to do additional review of this project or deny this 2011 MND.

Sincerely,

Danny Vickers
President SACR HOA

Mullen & Henzell L.L.P.
ATTORNEYS AT LAW

e-mail: glyons@mullenlaw.com



July 18, 2011

J. ROBERT ANDREWS
JAY L. BECKERMAN
JOSEPH F. GREEN
MACK S. STATON
GREGORY F. FAULKNER
WILLIAM E. DEGEN
CHRISTINE P. ROBERTS
MICHAEL E. CAGE
LORI A. LEWIS
PAUL K. WILCOX
JARED M. KATZ
DEBORAH K. BOSWELL
RAMÓN R. GUPTA
GRAHAM M. LYONS
RAFAEL GONZALEZ
JANA S. JOHNSTON
LINDSAY G. SHINN
ROBERT D. DOMINGUEZ
JENNIFER S. ADKINS
JARED A. GREEN

DENNIS W. REILLY
CHARLES S. BARGIEL
KIRK R. WILSON
OF COUNSEL

THOMAS M. MULLEN
1915-1991

ARTHUR A. HENZELL
RETIRED

Mr. Alex Tuttle
County of Santa Barbara
Planning and Development
123 East Anapamu Street
Santa Barbara, CA 93101

**Re: Draft Mitigated Negative Declaration for the Proposed Park Hill Estates
V.2, 10TRM-0000-00001**

Dear Mr. Tuttle:

This office represents SACR Association ("SACR"), an association of property owners in the San Antonio Creek neighborhood. Please accept the following comments on behalf of SACR. We have reviewed the Draft Mitigated Negative Declaration ("DMND") for the Park Hill Estates V.2 ("Project"). The DMND contains material defects in its analysis of identified significant environmental impacts and fails to consider additional impacts created by the Project. The DMND fails to appropriately describe the Project and, as a result, fails to consider the full set of impacts created by the development of the Park Hills Estates. The DMND directly contradicts the findings made by the County in the approved 2006 Negative Declaration (06-NGD-00000-00028) ("2006 ND") for the same property. As a result, the DMND is defective and cannot be approved.

The record supports a fair argument that the Project may cause one or more significant environmental impacts, and therefore, an Environmental Impact Report must be prepared to analyze those impacts and to consider alternatives to the Project that can reduce those impacts. The Project would result in the development of the last remaining large undeveloped parcel in the San Antonio Creek community. The property sits on a mesa, elevated above the surrounding properties and is prominently visible from numerous public view areas, including a designated State Scenic Highway. The property has never been developed and is filled with native grasslands, wetland indicator species, protected trees, and annual grasslands. It is also home to countless bird species, including white-tailed kite (a federally protected bird of prey), barn owls, great horned owls, red tailed hawks, red shouldered hawks, and Cooper's hawks. The nature of the environmental setting must inform the analysis of the



environmental impacts. Here, the Project would eliminate nearly all the habitat just described. A negative declaration is simply the wrong document to review the environmental impacts resulting from this type of project. CEQA demands a more thorough analysis and the consideration of project alternatives when a project results in the loss of such significant environmental resources.

Preparation of an Environmental Impact Report would provide the level of analysis commensurate with the significant impacts created by the Project. An EIR would also allow for consideration of project alternatives that meet the applicant's objectives and reduce or eliminate the Project's significant environmental impacts. The County has already approved a project on the property that achieves the applicant's goal of residential development while substantially reducing the environmental impacts. The 2006 ND is clear evidence that a feasible alternative project is possible. In light of this evidence, the County must prepare an EIR to consider how the project studied in the 2006 ND meets the applicant's objectives and reduces or eliminates the significant impacts identified in the DMND.

1. Specific Areas Where the DMND Is Materially Flawed.

A. A Negative Declaration is the Improper Environmental Document.

CEQA provides a strong presumption in favor of preparing an EIR, rather than a negative declaration. CEQA sets a "low threshold" for preparation of an EIR. *Pocket Protectors v. City of Sacramento* (2004)124 Cal.App. 4th 903, 928. The lead agency must prepare an EIR whenever substantial evidence in the record supports a fair argument that a project may have a significant effect on the environment. *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75. Under CEQA and its Guidelines, if a project is not exempt and may cause a significant effect on the environment, the lead agency must prepare an EIR. *Pub Res Code* §§ 21100, 21151.

"Significant effect on the environment" is defined as "a substantial or potentially substantial adverse change in the environment." *Pub Res Code* § 21068. A project "may" have a significant effect on the environment if a "reasonable probability" exists that it will result in a significant impact. *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 309. If any aspect of the project may result in a significant impact on the environment, an EIR must be prepared.

"Substantial evidence" is defined as "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached." *CEQA*



Guidelines (14 Cal Code Regs § 15384(a)). Substantial evidence may include: facts; reasonable assumptions predicated on facts; and expert opinion supported by facts. *CEQA Guidelines* (14 Cal Code Regs §§ 15064(f)(5) and 15384).

If substantial evidence supports a “fair argument” that a project may have a substantial effect on the environment, the lead agency must prepare an EIR even if it is also presented with other substantial evidence indicating that the project will have no significant effects. *Friends of “B” St. v. City of Hayward* (1980) 106 Cal.App.3d 988. Unlike the “preponderance of the evidence” standard generally used by public agencies, the fair argument standard prevents the designated lead agency from weighing competing evidence to determine who has the better argument concerning the likelihood or extent of a potential environmental impact. *Architectural Heritage Ass’n v. County of Monterey* (2004) 122 Cal.App.4th 1095, 1109.

As demonstrated in the administrative record, for this Project and DMND, substantial evidence supports a fair argument that the Project may have a significant effect on the environment. Areas of possible significant impact include: aesthetic/visual resources; biological resources; cultural resources; fire protection; geologic processes; land use; recreation; and transportation and circulation. As such, the County is obligated to prepare an EIR.

B. Project Description Fails to Describe the Whole of the Project.

The project description must be accurate and is necessary to determine the scope of environmental review. *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 199. If the project description is inadequate because it fails to discuss the complete project, the environmental analysis will probably reflect the same mistake. See *Laurel Heights Improvement Ass’n v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376. The project may not be split into small pieces so as to avoid environmental review of the entire project. *Orinda Ass’n v. Board of Supervisors* (1986) 182 Cal.App.3d 1145, 1171. Artificially narrowing the project description improperly minimizes the project’s true impacts and undercuts the public right to review the project. *Id.*

A “project” is defined as comprising “the whole of an action” that has a potential to result in a direct or reasonably foreseeable indirect physical change to the environment. *CEQA Guidelines* (14 Cal Code Regs § 15378(a)). “Project” refers to the activity for which the approval is sought, not just the government approval that may be required for the activity to occur. *CEQA Guidelines* (14 Cal Code Regs § 15378(c)). Although a project may undergo several approval stages, the

Mr. Alex Tuttle
July 18, 2011
Page 4



environmental review accompanying the first discretionary approval must evaluate the impacts of the ultimate development authorized by that approval. *Practice Under the California Environmental Quality Act*, CEB 2nd ed., § 6.31.B. This prevents the lead agency from chopping a large project into little ones, each with a minimal impact on the environment, to avoid full environmental disclosure. *Bozung v. LAFCO* (1975) 13 Cal.3d 263, 283. The lead agency may not limit environmental disclosure or review by ignoring development that will ultimately result from an initial approval. *City of Antioch v. City Council* (1986) 187 Cal.App.3d 1325.

The “project” is described as approval of a Vesting Tentative Map (“VTM”) that would divide the Project site into 20 lots composed of the following: 18 single family residential lots, one open space lot, and one lot encompassing Pennell Road. Clearly, the “whole the action” includes not only the approval of a subdivision map, but the development of an entirely new residential subdivision, including the construction, development, and long-term occupancy of 18 new homes and associated accessory structures, new streets, and infrastructure improvements. While the approval sought is a VTM, the activity for which the approval is sought development of 18 homes and the infrastructure related to these homes. The applicant is not seeking a VTM to simply create property lines – the applicant is seeking a VTM to facilitate construction of a new neighborhood. The DMND must consider all possible environmental effects of creating a new subdivision on the previously undeveloped lot. The DMND fails to do this.

Section 4.1 Impact Discussion discusses the Project’s impacts resulting from grading the property.

“The applicant proposes to grade the entire site as part of the initial tract improvements in order to construct the interior roads, create the detention basin, and establish level building pads on each lot. The overall grading for the site would convert a site that is currently characterized by gently undulating topography with a general southward trend to a stepped and tilted site designed to drain internally in one direction. This approach, typical of residential subdivisions, would contribute to potential incompatibility of the project surrounding development, which is characterized by individual lot development and varied topography, slopes, and building pads. Reducing the scope and extent of initial grading to that which is minimally necessary to construct the roads, achieve adequate



drainage, install the necessary infrastructure, and distributing the excess cut material, saving creation of most of the building pads for individual lot development, would help reduce this impact and possibly facilitate less overall alteration of the existing site topography.”

The above-quoted section demonstrates segmentation of the Project description in order to artificially reduce the environmental impact of the Project. The Project (i.e. “the whole of the action”) includes the development of 18 residences and all associated infrastructure and development associated with a new subdivision. Completing the proposed development requires grading the entire property. The DMND acknowledges the elements of the proposed development requiring grading (interior roads, detention basin, building pads) and also acknowledges these activities would contribute to potential incompatibility with the surrounding neighborhood. However, instead of analyzing the potential environmental impacts of the necessary grading, the DMND manipulates the Project description to artificially reduce the amount of grading required by the Project. The DMND recasts the Project to include only the initial grading “minimally necessary” to develop the basic infrastructure for the Project, while wholly ignoring creation of nearly all the building pads and associated infrastructure. This segmentation of the Project violates CEQA, especially when the DMND deliberately segments the Project to reduce the perceived environmental impacts associated with grading the site. The Project description must be revised to include all grading required to develop 18 residences and associated infrastructure necessary to develop the new subdivision. The applicant has already provided building pad elevations and detailed plans for the required infrastructure. Therefore, the County is obligated to analyze the potential impacts associated with carrying out the entire Project.

C. Inadequate Description of the Environmental Setting and Environmental Baseline.

CEQA requires the lead agency pay particular attention to rare or unique areas. “Knowledge of the regional setting is critical to the assessment of environmental impact. Special emphasis should be placed on environmental resources that are rare or unique to that region and would be affected by the project.” *CEQA Guidelines* (14 Cal Code Regs § 15125(e)). The Project will permanently eliminate the last large undeveloped parcel in the San Antonio Creek community. The property contains an abundance of biological resources not found elsewhere in the area. The DMND does not provide for the preservation or protection of any of the biological resources.



While the DMND acknowledges the significance of the Project's environmental setting it fails to analyze the current state of the Property. The DMND's discussion of the existing plant and animal communities (Section 4.4) relies on a patchwork of outdated and incomplete site studies. The only comprehensive biological survey of the property was completed in 1999 and based on site visits conducted in 1998. It is impossible to appropriately analyze the Project without understanding the current environmental baseline. Any analysis of the impacts to biological resources is flawed due to the basic lack of knowledge of what currently exists on the site. This fundamental lack of knowledge is demonstrated by the overwhelming evidence presented by members of the public that the biological resources described in the DMND are understated and fail to account for a variety of species. The County must complete a comprehensive biological survey of the Property. Until such a survey is completed, any analysis of biological resources or the Project's impacts on those resources is unfounded and materially flawed.

D. Aesthetic and Visual Resources.

i. Visual Simulations are Necessary to Understand the Project's Impacts and the Effectiveness of the Proposed Mitigation Measures.

The DMND fails to provide any evidence that the proposed mitigation measures will reduce the identified significant impact on aesthetic and visual resources. The DMND is fundamentally flawed because it fails to provide any analysis of the impacts created by the Project, and does not provide evidence that the proposed mitigation measures will reduce or avoid the significant impact.

The Project calls for 18 residential units at varying heights and locations. Although the Project is limited to approval of a Vesting Tentative Map, the applicant has provided specific information regarding the size, bulk, and scale of the future residences. Given that this information is available and the Project anticipates development of individual lots, the DMND must provide an analysis of the potential impacts created by the residences at the size, bulk, and scale identified by the applicant. The DMND must include visual simulations of the 18 residences at the height and scale proposed by the applicant. Visual simulations are routinely required for projects that occupy a highly visible and environmentally sensitive location. Without such visual simulations of the Project at build out, it is impossible to know if the proposed mitigation measure will reduce the identified impacts. The County General Plan, the Goleta Community Plan and County Zoning Ordinance establish various subjective and objective criteria for protection of visual resources.



The only way to determine the significance of the Project's impact to visual resources is to prepare and review visual simulations of the Project as contemplated at build out. The DMND's failure to provide visual simulations requires recirculation of a revised environmental document before the Project can be considered for approval.

ii. Loss of Existing Visual Resource Not Mitigated.

The DMND states:

"The site is also characterized by gently sloping and rolling topography and rock outcroppings, which, combined with the existing vegetation and plant communities, create a valuable scenic visual resource available to the public." (*DMND*, p. 5).

Pursuant to the County's Visual Aesthetics Impacts Guidelines, a project may have the potential to create a significantly adverse aesthetic impact if it would impact important visual resources, obstruct public views, remove significant amounts of vegetation, substantially alter the natural character of the landscape, or involve extensive grading visible from public areas. The Project meets every one of the County criteria, and therefore, it must be concluded it may have a significant adverse impact on aesthetic resources. The proposed mitigation measures address only the Project's impacts on public views in light of the construction of 18 residences; they do not address the significant impact inherent in the permanent loss of the existing vegetation and plant communities, which are in and of themselves a visual and aesthetic resource. No amount of BAR review and approval will bring back the native grasslands that will be destroyed by the grading and infrastructure placed on the property. Likewise, the proposed offsite mitigation of biological resources (i.e., existing vegetation and native grasslands) does not address the loss of these resources as visual resources. Therefore, the permanent loss of the existing vegetation and plant communities, which the DMND acknowledges are valuable aesthetic resources, constitutes an unmitigated significant impact.

iii. Loss of Visual Corridors Remains a Significant Impact.

The Project calls for 10' setbacks between structures on many of the residential parcels. (*DMND*, p. 13). In describing the potential impact of allowing such narrow setbacks, the DMND states: "If fully built out, this would result in relatively tightly and uniformly packed residences that would be out of character with the surrounding development." The only mitigation proposed for this inherent

Mr. Alex Tuttle
July 18, 2011
Page 8



impact is BAR review of individual lots. This mitigation measure does not assure a reduction or elimination of the identified impact. BAR review does not guarantee the homes will have larger or more varied setbacks. It makes no sense to establish setbacks that, if followed, will result in development out of character with the neighborhood. The only sensible mitigation measure is to increase the required setbacks to avoid the visual impact. Instead, the DMND allows the Project to maintain a setback that is inconsistent with the surrounding neighborhood. As a result, the project may create an unmitigated significant impact to visual and aesthetic resources.

The 2006 ND requires 25' setbacks between structures to mitigate impacts to visual and aesthetic resources. While the 2006 ND analyzed a slightly different project, the impact analysis is the same. The 2006 project comprised 14 parcels and 12 residences on the same property. The 2006 ND identified a significant environmental impact resulting from the loss of view corridors from public view points. To mitigate this impact, the 2006 ND required a 25' setback for all structures within the development. Here, the Project calls for 20 parcels and 18 residences, a 150% increase in the number of residential structures from the 2006 project, with 10' setbacks between many of the residences. It stands to reason the Project has the potential to create more visual impacts than the 2006 project by the simple fact it includes six additional residences with substantially smaller setbacks. The County determined in 2006 that a uniform 25' setback was necessary to mitigate the visual impacts of a residential development on the Project site. The DMND provides no evidence to refute or counter the conclusions reached in the 2006 ND.

The 2006 ND constitutes substantial evidence that a 25' setback is required to mitigate impacts to visual resources resulting from development of the Project site.

The DMND suggests the 10' setback may be appropriate on internal lots because these lots are lower than San Antonio Creek Road by at least 15'. However, the majority of these internal lots are slated for residences 25' above finished pad grade. This leaves development of these lots clearly visible from San Antonio Creek Road. Furthermore, the DMND fails to consider how the elevation of internal lots may affect views from Highway 154, Via Los Santos or Pennel Road.

The DMND also states that many of internal lots with 10' setbacks would need to be significantly raised above their current elevation in order to drain properly. For example, Lot 12 would receive up to 9' of fill and Lot 11 would receive up to 10' of fill. After raising the pad grade for these lots, the elevation



difference between San Antonio Creek Road and the internal lots is reduced to 5'-6' rather than the 15' stated in the DMND. Structures 25' above grade are visible from San Antonio Creek Road, even if the grade of the internal lot is 5'-6' below San Antonio Creek Road. The DMND fails to consider the true visual impact.

iv. No Mitigation of Grading Impacts.

The DMND states that grading and construction activities related to the initial subdivision improvements are significant but mitigatable. (*DMND*, p. 12). Identified impacts include degradation of public views and appearance as an abandoned project as "it may take years before individual lots are developed." The DMND states that reducing the scope and extent of initial grading may help reduce this impact. However, Cozy Drive and Cozy Lane run the entire length of the Project site and will be visible from San Antonio Creek Road, Via Los Santos, Highway 154, and Pennell Road. Lots 11 and 12 are some of the most visible lots and are slated to be elevated up to 10' above existing grade. It may be years before a single residence is built on the Project site. In the meantime, the Project site will appear like a half-built and abandoned construction project. Reducing the overall grading does not eliminate the identified significant impact to visual resources created by the installation of Cozy Drive, Cozy Lane, and elevating Lots 11 and 12.

v. Proposed Lot Sizes Are Inconsistent with Surrounding Neighborhood.

The Project may create a significant impact to visual resources if it results in a change to the visual character of the area or visually incompatible structures. (*DMND Checklist 4.1.*) The Project will significantly change the visual character of the San Antonio Creek community by the undersized parcels created by the VTM. The size and shape of the lots is incompatible with the surrounding neighborhood.

The proposed lots are significantly smaller than surrounding parcels. The Property is zoned 1-E-1 (one acre minimum parcel size); however, 18 of the 20 proposed lots are less than one acre and are inconsistent with the underlying zoning. While the Project includes one lot slated for low-income development, State Density Bonus Law does not mandate the County approve the Vesting Tentative Map in its current configuration. The inclusion of one affordable unit does not prevent the County from determining the Project site is not suitable for the number of lots proposed. The County retains discretion to require more appropriate sized lots.



The DMND relies almost entirely on the La Romana project as evidence the Project is consistent with the surrounding neighborhood. “Thus, while the La Romana Subdivision is less visible than the project site . . . the density and lot sizes of the proposed project are in character with the surrounding neighborhood.” (DMND, p. 14.) The DMND incorrectly states the average La Romana lot is approximately 0.56 acres; and therefore, the Project’s proposed lots are in character with the neighborhood. In fact, the original La Romana parcel was 28.52 acres and was subdivided into 25 lots, making the average parcel size 1.14 acres – not 0.56 acres as stated in the DMND. More importantly, La Romana preserved more than 42% of the original parcel as open space. This open space provides a buffer throughout the subdivision, breaks up the visual landscape, and maintains the rural character of the neighborhood. Unlike La Romana, the proposed project preserves less than 12% of the original parcel as open space and the Project site is more visible from public areas than La Romana. A comprehensive review of the San Antonio Creek community, including an appropriate analysis of La Romana, demonstrates the Project’s proposed lots are undersized. Developed at the size, bulk and scale proposed by the applicant, these undersized lots will result in a subdivision visually out of character with the surrounding area. This potentially significant impact remains unmitigated.

vi. The Property is Not Physically Suited for 18 Residential Parcels as Evidenced by the 2006 ND and the County Planning Commission’s Findings.

Much like the DMND, the 2006 ND analyzed residential development of the Project site. However, unlike the DMND, the 2006 ND determined the Project site was suited for only 12 residential lots. In approving the 2006 ND, the Santa Barbara County Planning Commission adopted a set of findings. These findings are mandated by CEQA and were necessary to support the Planning Commission’s approval of the 2006 ND. *Finding 2.2.3.4* addresses the physical suitability of the Project site for the proposed development – which at that time included 14 lots (12 of which were for residential development). This finding states, in part: “*The site would not be physically suited for the maximum density allowed by the site’s zoning (14 single family homes) due to site constraints.*” *Finding 2.2.3.3* identifies the main site constraints as: the presence of native bunch grass, the bedrock mortar, the potential for substantial quantities of cobbles and boulders to be encountered during grading, and the open space views provided of and through the Project site. Although the 2006 ND analyzed a slightly different development proposal, *Findings 2.2.3.4* and *2.2.3.3* remain a valid analysis of the Project site’s physical suitability for residential development. Nothing has changed to reduce or eliminate the site constraints



identified in the County Planning Commission's findings. The same physical site constraints analyzed by the County in 2006 remain today. In fact, the physical constraints are greater today due to the continued growth and expansion of native grasslands and other biological resources identified on the Project site. Furthermore, the Project significantly increases the density of residential development from what was approved in 2006, which only exacerbates the site constraints identified by the Planning Commission. If anything, the Planning Commission's findings are truer today than in 2006.

The County Planning Commission's 2006 findings constitute substantial evidence the Project site is not physically suited for 18 residential lots. The site constraints identified by the Planning Commission remain. For these reasons, the Project may cause a significant environmental impact.

vii. Loss of Views from Pennell Road Are Not Mitigated.

The DMND acknowledges the Project would result in an adverse impact to private views but "would not rise to the level of significance given the limited number of private views affected." The DMND fails to consider the public's regular use of Pennell Road, which is technically a private road. Pennell Road is a quiet cul-de-sac that provides spectacular ocean and mountain views. Several members of the public have testified they routinely walk, drive, and bicycle to Pennell Road to admire the view, exercise, and/or walk their dogs. While Pennell Road may be "private" it is not used this way. There is no gate or sign at the entrance to Pennell Road indicating it is a private road. As such, property owners along Pennell Road have testified they routinely observe neighbors from the surrounding San Antonio Creek community and other members of the public parking, walking or bicycling along Pennell Road.

The DMND fails to consider the public's regular use of Pennell Road and incorrectly concludes that the Project will only affect a "limited" number of private views. Given the level of public use on Pennell Road, the loss of ocean and mountain views from this location may result in a significant environment effect.

viii. DMND Fails to Consider Night Views of the Project.

Given the location of the Project site and the significant development proposed on the site, night lighting in and on the Project site could be highly visible from numerous public view points. Simulations of the Project, including possible



street lights and lighting associated with the 18 residential units and related structures, are necessary to evaluate whether the Project may have a significant impact to visual resources.

E. Biological Resources.

i. Failure to Provide Current Biological Inventory.

The Project site is rich in biological diversity, including federally protected birds and native trees and grasslands. However, the DMND fails to adequately characterize the quality and quantity of the biological resources on the Project site. The DMND relies on outdated biological surveys to assess the current resources found at the Project site. Without an updated, comprehensive biological survey, the DMND cannot fully analyze the biological resources or consider appropriate mitigation measures. The DMND's lack of current biological information is confirmed by the numerous public comments identifying birds, wetlands, and other biological features not considered in the DMND or in the biological reports upon which the DMND relies. The DMND's lack of current information prevents both the County and the public from fully analyzing the biological resources and proposed mitigation measures. Given the first-hand observations of neighbors and others who regularly visit the Project site, the Project may result in a significant effect to biological resources.

ii. Failure to Consider Impacts to Species Not Identified in DMND.

The Project site is the last remaining large undeveloped parcel in the San Antonio Creek Community. The Project would result in the permanent loss of these biological resources. Based on public testimony, the Property is home to several bird species not identified in the DMND or associated biological reports. These species include: barn owls, great horn owls, bats, red tailed hawks, red shouldered hawks, and Cooper's hawks. Each of these species has specific habitat needs and utilizes the Project site for different reasons. The DMND fails to analyze how the total loss of habitat at the Project site would affect these species. Furthermore, the DMND fails to consider whether these species utilize the Project site for nesting, hatching or roosting. Based on public testimony, the loss of habitat resulting from the Project may have a potentially significant impact on these biological resources.



iii. Off-Site Mitigation is Not Appropriate.

The applicant proposes to mitigate impacts to native grasslands through offsite mitigation. The DMND states offsite mitigation is a viable option because “on-site avoidance and/or restoration options would result in isolated, low-functioning grassland areas.” (*DMND*, p. 32.) This statement directly contradicts the County Planning Commission’s findings in 2006 that on-site mitigation is feasible.

In approving the 2006 ND, the Planning Commission found that the May 2006 Revised Native Grassland Mitigation Plan (“2006 Mitigation Plan”) provided adequate on-site mitigation of impacts to native grasslands. The 2006 Mitigation Plan allowed for residential development of the Project site while preserving a portion of the Project site as native grassland. The 2006 Mitigation Plan was adopted as part of the 2006 ND approval and constitutes substantial evidence that on-site mitigation is feasible. The fact the applicant has designed the Project in such a way that the 2006 Mitigation Plan cannot be implemented does not negate the fact on-site mitigation is feasible. Additional study is required to determine how the Project can be modified to accommodate on-site mitigation.

Because onsite mitigation is feasible, offsite mitigation cannot be considered a permitted mitigation measure. Allowing offsite mitigation in this instance violates the County General Plan and the Goleta Community Plan. The proposed offsite mitigation does not mitigate the loss of habitat for species that utilize the Project site for foraging, nesting and roosting. The offsite mitigation is to occur adjacent to Coal Point Reserve. Individual species that rely on the Project site for survival are not going to use the Coal Point Reserve as it is too far from the Project site. The DMND provides no mitigation measures for this impact to species and fails to consider these impacts in its analysis of offsite mitigation. Onsite mitigation, which has already been approved and found feasible by the County Planning Commission, would reduce or eliminate the potentially significant impact to species utilizing the Project site for foraging, nesting and roosting.

iv. Failure to Mitigate Loss of Non-Native Foraging Habitat.

The Project results in the permanent loss of approximately 10 acres of non-native annual grassland. This non-native grassland is used by numerous species, including federally protected species, for foraging and other activities. The DMND fails to mitigate this loss of habitat, which clearly has significant biological value.



v. Failure to Analyze and Mitigate Loss of Wetland Habitat.

The DMND identifies a drainage on the eastern portion of the Property, which includes wetland indicator species. The northeastern corner of the Property comprises a portion of watershed with a willow woodland north of proposed lots 8-11. A blue-line creek is present in the area. Members of the public have testified to observing areas of standing water and seasonal drainage throughout the Property. Despite substantial evidence of wetlands, the DMND does not delineate possible wetland areas or require further investigation. There are no mitigation measures proposed in the event wetlands are identified during construction. Given evidence in the record that wetlands exist on the Project site, and the Project's failure to address these wetland areas, the Project may have potentially significant impacts on this biological resource.

vi. Native Grassland Compensatory Mitigation Plan ("Offsite Mitigation Plan") Constitutes "Future" Mitigation.

The DMND requires preparation of the Offsite Mitigation Plan after approval of the Project. The timing of this mitigation measure prevents the public from reviewing and providing comment on the adequacy of the Offsite Mitigation Plan. This type of "future" mitigation violates CEQA. Any mitigation measure related to the permanent loss of native grasslands (or any other significant biological resource) must be included in the DMND so that the public can review and comment on the viability of the mitigation.

F. Cultural Resources.

The bedrock mortar is to be protected in perpetuity by future landowners. However, the Project does not accommodate or plan for the long-term protection of this cultural resource. As designed, the bedrock mortar is bisected by the property line between proposed lots 6 and 7. This subdivision design shows complete disregard for the value of this cultural resource. For example, the subdivision design prevents the future construction of boundary walls, fences, or hedges between lots 6 and 7. The Project must be redesigned to ensure compliance with the proposed mitigation measures.



G. Fire Protection.

i. Emergency Response Thresholds Cannot Be Met.

The standard accepted emergency response time is five (5) minutes. A potentially significant impact could occur in the event this standard is not adequately met. (*DMND*, p. 43.) Public testimony has been presented that this standard cannot be met at the Project site. Specifically, a neighbor on Pennell Road has testified that in 2008 a fire broke out on the Project site in the middle of the day. No other fires were apparent in the area at this time. According to the neighbor, the fire department did not arrive at the Project site until approximately 20 minutes after the initial 911 call. This first-hand testimony of emergency response time to the Property is substantial evidence the five minute emergency response standard cannot be met. Therefore, the introduction of 18 new homes onto a property that cannot be serviced by the Fire Department within mandated response standards may create a significant impact on Fire Resources.

ii. Addition of Vehicles Significantly Alters Emergency Evacuation Capacity in the Community.

The Project is within a high fire hazard area — perhaps the most fire-prone residential area in the County. Future residents of the Project will inevitably be evacuated at some point. The County has received first-hand accounts of evacuation procedures on San Antonio Creek Road and Via Los Santos. Given the number of people and horses (which are regularly let loose on San Antonio Creek Road and Via Los Santos during a fire), the condition of the access roads, and the regular closure of Highway 154 during a fire, evacuations from this area are extremely chaotic and dangerous. The Project will add 18 homes and roughly 36 vehicles to what is already a life-threatening situation. Adding any traffic to San Antonio Creek Road or Via Los Santos during an emergency evacuation may cause a significant impact to Fire Resources. The DMND fails to analyze the potential impact of the Project on Fire Resources and Traffic and Circulation in the event of an evacuation. The DMND simply makes a conclusory statement that 36 cars will not significantly effect an evacuation event. Public testimony from several neighbors who have been evacuated from the area directly contradict the DMND's conclusion. This public testimony constitutes substantial evidence that the introduction of 18 new homes and 36 new vehicles into the San Antonio Creek community may have a significant impact on Fire Resources and Traffic and Circulation in the (inevitable) event of evacuation. The DMND provides no viable mitigation measures for this impact.



iii. Access to Tucker's Grove during Evacuation.

The DMND relies on Tucker's Grove as a means of emergency access. The access road to Tucker's Grove is unpaved, poorly graded and not maintained. It is in no condition to be used for emergency access. Reliance on this road for emergency access is not supported by factual evidence.

H. Geologic Processes.

The DMND states the Project would involve approximately 12,500 cubic yards of cut and 12,500 cubic yards of fill. This number appears very low. The 2006 ND called for 17,446 cubic yards of cut and 17,446 cubic yards of fill for a 14 parcel development with 12 residential lots. The Project calls for a 20-parcel development with 18 residential lots. It is unclear how the Project achieves 6 more residential parcels with 4,946 fewer cubic yards of cut and fill.

I. Recreation.

Several members of the public testified they use the Project site for informal recreation on a regular basis. The DMND incorrectly states the Project site is not used by the public. The DMND must be revised to analyze the potential impact to recreational resources in light of the public testimony.

Given that the Project Site has never been developed and public testimony supports public use of the Project site for many years, the DMND should consider whether the public has perfected prescriptive rights to portions of the Project site. The Project may interfere with vested public access rights.

J. State Density Bonus Law.

i. The DMND Miscalculates the Base Zoning.

The applicant proposes to include one small lot for an affordable unit, which triggers the County's Density Bonus program. Applying the Density Bonus program, the Project divides the Project site into 20 lots. The County misapplies the Density Bonus program.

The Project divides the Project site into 20 lots. The Project is located in the 1-E-1 zone district, which requires one acre minimum lot size. The actual allowable lot size in the 1-E-1 zone district is also subject to Residential Zones Lot



Standards. The application of these lot standards often requires lots in excess of one acre.

The DMND states the base density for the Project site is 14 residential lots based on a one-acre minimum parcel size. This statement is an inaccurate application of the County's Zoning Ordinance and Density Bonus program. The 1-E-1 zone district requires one acre parcels, upon which a single family residence and accessory structures can be placed. Given the proposed Density Bonus of 25% above the baseline density, the Project could include a maximum of 18 lots (assuming the Project site satisfied Residential Zones Lot Standards and physical site constraints). The Project calls for 20 total lots. The Project requires 2 lots for open space and road access; however, these two lots count as part of the total subdivision and must be included in the lot count. Therefore, the Project is inconsistent with the 1-E-1 zone district, even after granting the Density Bonus.

The DMND incorrectly assumes the "base density" for the Project site is 14 lots. Calculation of base density must consider the requirements of the underlying zone district, which includes Residential Zones Lot Standards and underlying physical constraints. Here, the County Planning Commission has already determined the Project Site is physically constrained and is not suitable for more than 12 residential units. See *County Planning Commission Finding 2.2.3.4*. Irrespective of the Density Bonus program, the County has determined the "base density" of the Project site to be 12 residential units. As proposed, the Project receives a 50% density bonus over the "base density." The DMND provides no justification or support for such a bonus and, therefore, the Project is inconsistent with the County Zoning Ordinance and 1-E-1 zone district requirements.

ii. Allowing Additional Density Creates a Specific Adverse Impact on Public Safety.

Allowing 18 new homes on a property located in a high-fire area and out of reach by the County Fire Department within acceptable response times creates an adverse impact on public safety. Evidence in the record confirms the Project site is within one of the most fire-prone neighborhoods in Santa Barbara County. The surrounding community is regularly evacuated for fire emergencies. Those evacuation events are described by residents as chaotic and dangerous. Public testimony shows the current access and emergency plans are inadequate to service even the existing residents. San Antonio Creek Road and Via Los Santos are the only ways out of the San Antonio Creek neighborhood—and often times Highway 154 is closed during a



fire event, further limiting the exit points. The Project's only access is via San Antonio Creek Road and Via Los Santos. No mitigation is provided for this public safety impact. The County is not required to grant a Density Bonus if doing so would create a specific adverse impact on public safety. For the reasons stated above, applying a Density Bonus would do just that.

County Emergency Response Standards require a 5-minute response time. Public testimony demonstrates the Project cannot meet this standard. Emergency response time is extremely important given the Project's location in a high fire area and proximity to other residences. If a structure within the Project were to ignite and the Fire Department could not reach the fire within the standard response time, it is reasonable to assume the fire could quickly burn out of control and impact not only the Project residents but the entire San Antonio Creek community. No mitigation is provided for this adverse impact on public safety.

iii. The Project Fails to Ensure Development of Affordable Housing.

The Project description includes mention of one small lot reserved for a very-low income rental unit; however, the DMND does not require construction of the affordable unit. Because the Project only encompasses a Vesting Tentative Map, the applicant provides no assurance any of the proposed lots will be developed. In fact, the DMND acknowledges the lots may be individually developed. If this is true, who will develop the very-low income rental? The Project benefits from the Bonus Density program and will immediately reap those benefits through a 20-unit subdivision. But how do the County and the general public know the consideration offered for the increased number of lots will ever come to fruition? The Project must be conditioned so the affordable unit is developed within a very short period of time after approval of the Vesting Tentative Map. Without such a condition, granting a Density Bonus is unwarranted.

K. Land Use and Project Consistency with Applicable Subdivision, Zoning and Comprehensive Plan Requirements.

i. General Lack of Analysis of Applicable Policies.

The DMND makes only a cursory review of the many County zoning requirements, community plans, comprehensive plan requirements, policies, standards and regulations (collectively, "County Regulations") that apply to the Project. Many



of the County Regulations are merely identified by section or policy number, but never discussed. Section 8.0 lists no fewer than 70 County Regulations that apply to the Project - the DMND analyzes no more than 9 of these County Regulations. This lack of analysis constitutes a material defect in the DMND as it fails to inform the general public of the possible significant environmental effects created by inconsistencies with applicable County Regulations and does not support a finding of no significant impact.

ii. Failure to Comply with Policies BIO-GV-14 and GV-15.

The Project does not comply with BIO-GV-14 and GV-15 as it permanently removes native grasslands, foraging areas, and raptor habitat. BIO-GV-14 and GV-15 require that native grasslands be preserved to the maximum extent feasible and that significant biological communities not be fragmented. The Project does not preserve native grasslands, even though such preservation is feasible. The 2006 ND and associated findings demonstrate on-site mitigation is feasible. The number of residential lots does not affect the feasibility of on-site mitigation. We are confident the Project could be redesigned to accommodate the desired number of lots while complying with BIO-GV-14 and GV-15. Based on the evidence in the administrative record that on-site mitigation is feasible, the proposed offsite mitigation is inconsistent with BIO-GV-14 and GV-15 and therefore may create a significant environmental impact.

iii. Failure to Comply with the Subdivision Map Act.

Proposed lot 20 is a strip of land underlying a private road. The DMND provides no analysis of the Project's compliance with the Subdivision Map Act. The size, shape, and location of Lot 20 result in a undersized, unusable parcel in violation of the Subdivision Map Act.

iv. Loss of Substantial Open Space Identified as "Less than Significant Impact."

DMND Checklist 4.1 identifies the loss of substantial open space as a "less than significant impact" (without mitigation). How can the total loss of the last remaining undeveloped parcel in the San Antonio Creek area be considered less than significant? The DMND provides no justification for this finding.



L. Mandatory Findings of Significance.

The County must make a finding of significant impact if there is disagreement supported by facts, reasonable assumptions predicated on facts and/or expert opinion supported by facts over the significance of an effect which would warrant investigation in an EIR. The DMND incorrectly states there is no disagreement over the significance of an effect which would warrant preparation of an EIR. The administrative record is replete with evidence warranting preparation of an EIR due to the Project's significant environmental impacts. Evidence includes without limitation:

- Expert testimony as to the DMND's deficient analysis of Biological Resources and unmitigated impacts;
- County Planning Commission's 2006 findings that on-site mitigation of native grasslands is feasible;
- Testimony from persons with actual knowledge that the Project may have a potentially significant impact on a number bird species and plant communities that were not identified or discussed in the DMND;
- Disagreement over the DMND's analysis of the Project's consistency with all applicable County Regulations;
- Testimony from persons with actual knowledge that the Project fails to meet minimum emergency response time requirements and therefore creates a significant impact on Fire Resources;
- Testimony from persons with actual knowledge that the Project creates significant impacts on Fire Resources and Traffic and Circulation particularly in the inevitable event of an emergency evacuation; and
- Evidence that the number of proposed lots is inconsistent with the County Zoning Ordinance, and Density Bonus program and therefore creates an unmitigated significant impact.

Conclusion

The Project results in many significant environmental impacts, which the DMND fails to adequately address or mitigate. The DMND fails to provide the appropriate level of analysis for the scope of the Project. In many instances, the DMND is silent as to identified impacts. An environmental impact report is required due to the substantial evidence presented of potential significant impacts to visual and aesthetic resources, biological resources, fire protection, traffic and circulation, grading, and inconsistencies with County Regulations. CEQA demands preparation of an EIR in this instance. The EIR process will allow the County and the general public to

Mr. Alex Tuttle
July 18, 2011
Page 21



carefully consider the Project and craft conditions and project alternatives to the Project such that the impacts identified can be avoided or reduced.

Due to the volume of testimony given in response to the DMND and the gravity of the deficiencies identified in the DMND, we request the County prepare and circulate responses to the comments submitted. A response to comments will avoid unnecessary confusion and dispute between the County, the applicant, and the public as the Project progresses through the County process.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Graham Lyons', written in a cursive style.

Graham M. Lyons of
Mullen & Henzell L.L.P.

GML:rpl

Attachments: Santa Barbara County Planning Commission Staff Report for Park Hills Estates Subdivision and Road Naming, Case No.: 06TRM-00000-00001, April 25, 2007

Planning and Development Initial Study & Proposed Final Tiered Negative Declaration (06-NGD-00000-00028) Park Hill Estates

G:\20867\0001\DOCS\F31330.DOC

David Magney Environmental Consulting

P.O. Box 1346, Ojai, California 93024-1346 * E-mail: david@magney.org
805/646-6045 Voice * 805/646-6975 FAX
www.magney.org

1 December 2011

Alex Tuttle
Planner
Development Review Division
Santa Barbara County Planning & Development
105 E Anapamu Street
Santa Barbara, CA 93101

Subject: Park Hill Estates Proposed Final MND v.2 (10TRM-00000-00001)

Dear Mr. Tuttle:

David Magney Environmental Consulting (DMEC) was contracted by the San Antonio Creek and Park Highlands Homeowners Associations to review and provide comments on the Proposed Final Mitigated Negative Declaration (MND), focusing on biological resources. This letter provides general and specific comments on the MND and supporting documents. DMEC previously provided detailed comments on the draft MND dated 17 June 2011.

The Park Hill Estates project site is approximately 14.7 acres, located on a gently sloping terrace containing natural vegetation in the Goleta Valley. The site has never been developed, although it is basically surrounded by residential development. The project applicant is proposing to build 16 single-family homes and related facilities on 16 new lots.

Since the assessment of impacts to biological resources in the MND is based for the most part on work conducted by Mark de la Garza of Watershed Environmental, a review of some of Watershed Environmental's work on the Park Hill Estates project is provided prior to comments on the MND itself. VSJ Biological's 1999 report on biological resources of the project site was available for review. The County needs to provide all reports associated with the proposed project that are used to conduct the impact assessment and make conclusions.

Park Hill Vegetation Survey by Watershed Environmental

Watershed Environmental first conducted botanical surveys of the project site in March 1998, with the results of that work summarized in the March 1999 report, but was not available as part of the CEQA documentation, and has not been provided even after several specific requests to County staff. That report was the basis for the assessment and report to the Planning Commission in 2007. Since then, Watershed Environmental conducted a supplemental survey of the vegetation of the project site in August 2010, dated 25 October 2010¹. Watershed Environmental's 2010 report includes: introduction, survey methods, survey results, conclusions, and references sections.

The introduction section states that the report, "describes the existing botanical resources located at 4700 Via Los Santos Road (APN: 59-290-041) where residential development is proposed. Watershed

¹ Watershed Environmental, Inc. 2010. Vegetation Survey: Park Hill Estates, 4700 Via Los Santos Road, Santa Barbara, California. (25 October 2010.) Orcutt, CA. Prepared for Jeff Nelson, The Nelson Law Firm, Santa Barbara, CA.

Environmental performed a botanical inventory/native grassland survey of this property in 1999 and performed a follow up survey in 2005. We also prepared a native grassland mitigation plan for this property in 2006”. DMEC finds the 2010 report wholly inadequate in describing the existing botanical resources of the project site. In addition, the report provides no additional information on wildlife use of the site.

Section 2.0, Survey Methods, on page 1, states, “...biologist Mark de la Garza and mapping analyst Melodee Hickman performed field surveys of the project site on August 11, 18, and 24, 2010. ...Field notes were used to record direct observations of vegetation types and botanical and wildlife resources”. Table 3, Vegetation Observed, starting on page 6, includes a list of vascular plants, including each plant’s scientific name, common name, and status as native or introduced. This list has numerous errors, including spelling errors, and lack of use of currently accepted botanical nomenclature. Examples are provided below:

Watershed Environmental’s use

Ambrosia psilostachya
Baccharis pilularis var. *consanguinea*
Bromus madritensis rubens
Calandrinia ciliata
Ice plant (for *Carpobrotus edulis*)
Crassula connate
Dichelostemma capitatum
Eremocarpus setigerus
Eucalyptus globules
Gnaphalium californicum
Gnaphalium canescens ssp. *microcephalum*
Hemizonia fasciculata
Hordeum brachyantherum
Hordeum murinum
Leymus trituciudes
Polygonum sp.
Pyrancantha sp.
Robinia pseudoacacia
Thysanocarpus laciniatus

Correct Use

Ambrosia psilostachya var. *californica*
Baccharis pilularis ssp. *consanguinea*
Bromus madritensis ssp. *rubens*
Calandrinia ciliata
Hottentot Fig
Crassula connata
Dichelostemma capitatum ssp. *capitatum*
Eremocarpus setigerus
Eucalyptus globules var. *globules*
Pseudognaphalium californicum
Pseudognaphalium microcephalum
Dienandra fasciculata
Hordeum brachyantherum ssp. *brachyantherum*²
Hordeum murinum ssp. *glaucum* or *leporinum* or *murinum*
Elymus triticooides ssp. *triticooides*
Polygonum needs to be identified, and spelled correctly.
Pyrancantha needs to be identified, and spelled correctly.
Robinia pseudoacacia
Thysanocarpus laciniatus var. *laciniatus*

These numerous errors put into question the accuracy and completeness of the entire list and other aspects of the report.

Page 6, 3.1.2, Vegetation, states that there are “89 species of plants (Table 3)”; however, Table 3 lists only 86 taxa. What was left off the list? It also says that 62 percent of the species are nonnative and 38 percent of them are native, which appears to correspond to there being 89 taxa, but not knowing which taxa are present but not reported makes it impossible to verify the accuracy of any statistical conclusions.

The list also states that *Calandrinia ciliata* is not native when in fact it is a native annual species, a regular component of annual grasslands. Watershed Environmental’s calculations of native versus nonnative

² Two subspecies of *Hordeum brachyantherum* are known to occur in the region, ssp. *brachyantherum* and ssp. *californicum*. Which subspecies is present? Convention on the use of scientific names says that if the subspecies/variety name is the same as that for the species, then it can be left off; however, when other subspecies/varieties occur onsite or nearby, it is wise, and important, to include the full name to eliminate any question about which taxon is indicated.

species are in error, in part because of errors in such as identified for the native *Calandrinia*. If there are only the 86 taxa present onsite, as evidenced by those taxa listed in Table 3, then the percentage of native species increases to 40 percent. The likelihood is that the flora of the project site contains many more species than observed and reported and that percentage of native species is also higher than reported.

Watershed Environmental's claim on Page 1 that it followed California Native Plant Society (CNPS), U.S. Fish and Wildlife Service (USFWS), and California Department of Fish and Game (CDFG) survey protocols and guidelines is not evidenced by what is reported. For example, de la Garza states that he conducted field surveys during March 1998, and 11, 18, and 24 August 2010. Survey protocols state that multiple surveys should be performed during seasons when plants are identifiable. In the Santa Barbara region, plants of various species can be found growing nearly any time of the year; however, most of them are only identifiable during one season, or only a portion of a season. De la Garza failed to conduct any surveys in the middle and late spring, early or late summer, in the fall, or in the winter. The protocols intend that the surveys occur in multiple seasons during the same year, and that if severe climate conditions occur in one season or year, that the surveys should be conducted again the following year. Annual species are especially sensitive to rainfall and temperature patterns/conditions, dependent on minimum climatic conditions suitable for completing their life cycle before they will germinate. Watershed Environmental did NOT follow these survey protocols. To claim that their surveys and reports accurately characterize baseline conditions of biological resources onsite is highly inaccurate and misleading. However, the botanical inventory is silent on nonvascular plants, including bryophytes (mosses, liverworts, hornworts) and lichens.

Watershed Environmental's 1999 report is titled "Botanical Inventory/Native Grassland Survey 4700 Via Los Santos Road, Santa Barbara, California". Summaries of that report clearly show that it does not adequately inventory the botanical resources of the site nor adequately describe and map the native grasslands present. That report needs to be made available to the public for review since the County relies so heavily on that document.

Minimum Botanical Survey Requirements

The USFWS, CDFG, and CNPS each have adopted very similar protocols and guidelines for botanists to follow when conducting field surveys and documenting habitat conditions of a project site proposed for development. Copies of these survey guidelines/protocols are attached for reference, and are incorporated herein. Specific pertinent requirements are discussed below:

USFWS Guidelines (published in 2000³), item "3. List **every** [emphasis added] species observed and compile a comprehensive list of vascular plants for the entire project site. Vascular plants need to be identified to a taxonomic level which allows rarity to be determined" and 4e., "a comprehensive list of all vascular plants occurring on the project site for each habitat type".

CNPS Botanical Survey Guidelines (published in 1983 and revised in 2001⁴), item 4b, "Floristic in nature. A floristic survey requires that every plant observed be identified to species, subspecies, or variety as applicable. In order to properly characterize the site, a complete list of plants observed on the site shall be included in every botanical survey report. In addition, a sufficient number of visits spaced throughout the growing season is [sic] necessary to prepare an accurate inventory of all plants that exist on the site. The

³ U.S. Fish and Wildlife Service. 2000. Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed, Proposed and Candidate Plants.

⁴ California Native Plant Society (CNPS). 2001. Botanical Survey Guidelines. Board of Directors, Sacramento, California. See www.cnps.org for complete text of guidelines. First published in 9 December 1983, revised 2 June 2001.

number of visits and the timing between visits must be determined by geographic location, the plant communities present, and the weather patterns of the year(s) in which the surveys are conducted.”

These guidelines developed and published by the federal and state biological resource agencies, and the botanical profession, through CNPS, establish the minimum standards by which botanical resource inventories are to be conducted. These are the standards expected of the botanical consulting profession.

CDFG (2009⁵) protocols for conducting botanical surveys and assessing impacts are similar to those by the USFWS and CNPS and require floristic field surveys performed enough times of the year to be able to fully identify all plant species.

Nonvascular Plants Not Assessed

There is no mention of nonvascular plants, yet there are numerous species of nonvascular plants that are known from similar habitats nearby, such as the Bridle Ridge/San Marcos Foothills project site a short distance to the east. DMEC conducted a botanical survey of the Bridle Ridge project site in 1997 and 1998 (DMEC 1998⁶) as part of an Environmental Impact Report for that project, finding 59 different species, 23 of those species were found on rock outcrops/boulders. Field surveys were conducted in multiple seasons for vascular as well as nonvascular plants. Several species of lichens on the Bridle Ridge site were considered rare and mitigation was proposed to protect them. Many of the rare lichens at the Bridle Ridge site were on boulders within grassland areas. The Park Hill Estates project site contains similar habitat and may also contain rare lichen species. Surveys of the lichen and bryophyte flora must be conducted before the inventory can be considered adequate. Below are photographs of just a few of the lichen species found onsite.



At least five different species of crustose lichens are illustrated above growing on the boulders onsite.

The lichen and bryophyte flora are important parts of the plant biodiversity of the project site, which has not been recognized in any manner in the MND or supporting biological reports.

Proposed Final MND 2011

Page 7, Section 3.2, Environmental Baseline, now states (as compared to the June 2011 draft MND) that the assessment was based on conditions at the time of the Initial Study at 2010; however, it does not apply

⁵ California Department of Fish and Game (CDFG). 2009. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities. 24 November 2009. California Natural Resources Agency, Department of Fish and Game, Sacramento, California.

⁶ David Magney Environmental Consulting. 1998. Botanical Resources of the Bridle Ridge Development Project, Santa Barbara County. May 1998. (PN 97-0162.) Ojai, California. Prepared for County of Santa Barbara, Santa Barbara, California. Prepared on behalf of Rincon Consultants, Inc., Ventura, California.

or consider baseline conditions equally. Most of the surveys for biological resources were performed in 1998, with supplemental work done in 2009, and County review in 2011; however, there have been no wildlife surveys since 1998-1999 and never any surveys for non-vascular plants. There have never been any rare plant surveys during the spring or early summer months.

Page 26, Background and Site History, states that the project site has largely been in a natural state except that it had been dryland farmed for at least one year in 1968; including a small orchard in the southwest corner of the property. Afterwards it was used only for grazing horses until 1995. The site has been unused for any human purpose since 1995. The presence of the boulder outcrops over much of the property is clear and compelling evidence that the majority of the property has never been tilled.

Botanical Resources

Page 27, Methods, state that a botanical survey was conducted in March 1998 (Watershed Environmental 1999), a vegetation survey in August 2010 (Watershed Environmental 2010), and that the County performed grassland sampling in April 2011; “Methods were *largely* based on CNPS survey guidelines (CNPS 2001), and CDFG survey guidelines (CDFG 2009). Quantitative sampling was not performed”. A County P&D biologist visited the site in December 2000, May 2003, July 2010, and March and April 2011.

As stated above under DMEC’s review of Watershed Environmental’s botanical survey report, not one biologist surveying the project site followed standard or defensible field survey methods, yet the conclusions made by the County regarding impacts to botanical resources by the proposed project are based primarily on Watershed Environmental’s inadequate reports and site verification visits by the County biologist. Botanical survey “largely” based on standard survey protocols are NOT following survey protocols. DMEC contends that neither Watershed Environmental or the County did not get even close to “largely” following the survey protocols. Specifics of these failures are further explained below.

Vegetation Sampling

Standard scientifically acceptable (statistically valid) sampling design generally requires at least 20 samples (Dytham 2003⁷), in this case transects or plots. Only 10 plots were sampled onsite, apparently in April 2011, to verify Watershed Environmental’s August 2010 vegetation survey. Dytham (2003⁸) states (on page 3) that when sampling two groups, an equal number of samples should be taken from both groups. This applies to Watershed Environmental’s work and the County’s verification since they were attempting to distinguish “non-native grasslands” from native perennial grasslands, i.e. two groups. However, both Watershed Environmental’s and the County violated scientifically and statistically-sound sampling methods by not collecting data from each basic group, by not sampling the areas randomly (a basic tenant in statistical sampling), not having enough samples to truly be statistically representative, and not sampling in other seasons when a significant component of herbaceous grassland species are present.

Sampling should capture the entire range of conditions or variables. Sampling should capture each variable, in this case, a plant species, at least once. The sampling by Watershed Environmental apparently consisted only of a meandering foot survey and recordation of species observed in field notebooks, detecting less than 86 plant taxa (Watershed Environmental’s report states that 89 species were observed; however, only 86 are included in their Table 3). No transects or survey plots were established. There is no description, other

⁷ Dytham, Calvin. 2003. *Choosing and Using Statistics: A Biologist’s Guide*. Second Edition. Blackwell Science, Malden, Massachusetts.

⁸ Ibid.

than referring to USFWS, CNPS, and CDFG guidelines, as to how plant communities were identified or how the boundaries were determined.

The County sampled 10 plotless plots, and one belt transect on 6 and 14 April 2011. Sampling design should include enough transects to sample each taxon present at least once to ensure statistical validity. CNPS Vegetation Ecologist, Jennifer J. Buck-Diaz states, “I was disheartened to see the quote ‘In addition, it is important to note that Rapid Assessment [RA] sampling is by its very nature a plotless technique (i.e., there is no set size for plots), and it is frequently used in grassland classification (see Sawyer, Keeler-Wolf and Evens, 2009)’. CNPS does not [emphasis added] recommend the use of Rapid Assessments for grassland classification.”⁹

CNPS Vegetation Program Director, Julie Evens states, “Please note: that the CNPS Vegetation Program typically recommends using a plot-based or belt-transect based approach for sampling of grassland communities. Because they are typically diverse and patchy assemblages of herbaceous plants, a bounded plot technique provides a more accurate reflection of the plant richness/cover present (as compared to the rapid assessment method). It appeared that the firm on this project did do some plot-based surveys, which is good. Even so, CNPS has conducted rapid assessments of grasslands once we have determined that enough replicate plot samples have been taken to define the grassland types, since this RA technique allows for broad representation of areas when time is minimal on mapping projects.”¹⁰

Sampling plots/transects should be established randomly (Dytham 2003¹¹). Or if they need to be stratified, randomness must be implemented at some point to avoid or minimize bias by the sampler. Below is language from a Texas A & M University Galveston description of vegetation sampling methods.

“The most common quantitative sampling methods are the quadrat method and the transect method. The quadrat method allows the user to define a fixed area, called a plot, within which plant characters can be measured. Usually, a rectangular quadrat frame, such as the one shown in Figure 1 (not included here), is used to define the sampling area, although a quadrat can also be a permanently established area within a site. Although the exact experimental design will determine where and how many samples are taken, the procedure always involves measuring plant characters of only those plants inside the quadrat. Quadrat sampling usually attempts to define plant community characteristics for an area much larger than the actual area sampled. For this reason, care must be taken to obtain samples that represent the entire habitat and that eliminate the human factor. Usually this means employing an experimental design that ensures random placement of the frame or permanent quadrat.”¹²

“Data collected in the field are usually subjected to some type of statistical analysis. Statistical methods range from simple to complex, with the exact method chosen depending on the objective of the study and the original experimental design.”¹³

Apparently, no one bothered to use any statistical tests to determine the validity of their sampling methods or hypotheses, as is standard in such studies, or at least it should be standard practice. DMEC presumes

⁹ Buck-Diaz, Jennifer J., California Native Plant Society Vegetation Ecologist, email to David Magney re: Proposed Final MND, dated 25 October 2011.

¹⁰ Evens, Julie, California Native Plant Society Vegetation Program Director, email to David Magney re: Proposed Final MND, dated 25 October 2011

¹¹ Ibid.

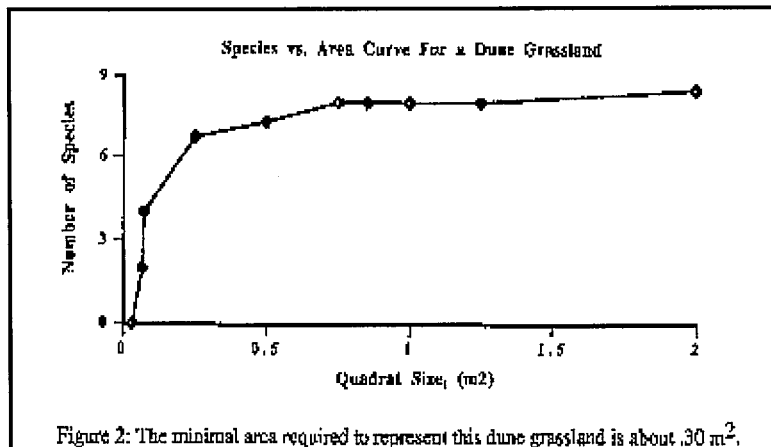
¹² Texas A&M University at Galveston webpage titled, “Scientific Methods for Studying Vegetation”, <http://www.tamug.edu/seacamp/virtual/methods.htm>

¹³ Ibid.

that Watershed Environmental and the County hypothesized that native and nonnative grasslands could be distinguished/mapped onsite. They further biased their sampling by not using any randomness in establishing plots or how they actually sampled, all of which are basic sampling protocols, that is, random sampling is vital to removing bias by the data gatherer (Dytham 2003¹⁴).

Both Watershed Environmental and the County failed to use sample design protocols when determining the size of the relevé plots. First, Watershed Environmental should have assessed the plant community by walking/surveying it and making a list of all plants found during appropriate seasons. The County should have done the same, and only when they reached the plateau of the species-area curve, then they could determine the bounds (size) of the relevé plot(s).

The species-area curve is a chart/graph that indicates the number of species found per unit area. A normal species-area curve will be very steep in the beginning, leveling off at a point when the survey area is so large that the area includes a majority of species occurring in that area, in this case, an area of grassland vegetation. Below is an example of a species-area curve taken from a Society for Ecological Restoration Management Notes website (Fibelibus and MacAller 1993¹⁵).



This curve can be used as a guide to determine the minimum size of the sampling plot to ensure that the sampling minimizes sampling bias, to make sure that the vast majority of species that make up the plant community actually get sampled. Had Watershed Environmental and/or the County followed sampling design and methods as described by the Bureau of Land Management (1999¹⁶), the results would almost certainly have been accepted and show different results than has been presented.

On the issue regarding the seasonality of the sampling, as can be seen in the photographs below taken on June 17th, the “non-native” grasslands of Santa Barbara Ranch south of the railroad tracks west of Isla Vista are clearly dominated by *Deinandra fasciculata*, with well over 10 percent cover over a large portion of the site. All the yellow visible in these photographs is *Deinandra fasciculata*, a common native grassland

¹⁴ Dytham, Calvin. 2003. *Choosing and Using Statistics: A Biologist's Guide*. Second Edition. Blackwell Science, Malden, Massachusetts.

¹⁵ Fibelibus, M.W., and R.T.F. MacAller. 1993. *Methods for Plant Sampling*. Prepared for California Department of Transportation, District 11, San Diego, California. San Diego State University, Biology Department, San Diego, California. Published in *Restoration in the Colorado Desert: Management Notes*. Available at <http://www.sci.sdsu.edu/SERG/techniques/mfps.html>.

¹⁶ Bureau of Land Management. 1999. *Sampling Vegetation Attributes*. (Interagency Technical Reference 1734-4.) Denver, Colorado. Available at <http://www.blm.gov/nstc/library/techref.htm>

species. Watershed Environmental and the County both list this species as present on the Park Hill Estates site, but the dominance of the site by this grassland species changes dramatically as many sites within its range between spring and summer.



Bartolome et al. (2007¹⁷) compared grassland-sampling methods and determined that foliar cover sampling “results vary with season and weather, which can be misleading”. This finding supports DMEC’s contention that Watershed Environmental’s and the County’s sampling were flawed for the purposes of determining native grassland species dominance. DMEC does note that the County otherwise made an attempt to follow CNPS vegetation assessment protocols; however, they were not statistically valid or performed in the summer months as well as the spring, and they inappropriately used relevé plots to characterize the vegetation.

Vegetation Mapping

While DMEC contends that the vegetation sampling did not follow statistically valid methods, the mapping by the County was more accurate for grassland vegetation than mapped by Watershed Environmental; however, without the actual relevé plot areas were not mapped, were not supported by defined plots. There appears to be a heavy bias by the mapper in minimizing the area mapped as native perennial grassland and scrub habitats. The boundaries of the plant communities were absurdly tight (nearly every bush was individually delineated) and but not applied equally for all vegetation types. The boundaries of plant communities are rarely finite; there is often a zone of transition from one type to another. The size of the mapping units should be the same throughout. That is, a minimum polygon size should be determined based on the objectives and size of the project site, and applied uniformly across the site. In this case, the spaces between shrubs containing herbaceous vegetation were classified as annual grassland instead of coastal scrub when grassland types were more generally delineated.

A cursory survey of the site by DMEC on 27 October 2011 found the boundaries between annual and perennial grasslands to be nebulous (not obvious) and the areas between shrubs in the scrub vegetation to be dominated by perennial grasses. Any line drawn dividing perennial grassland and annual grassland on the Park Hill Estates project site is arbitrary at best without extensive plot/transect sampling.

¹⁷ Bartolome, J.W., G.F. Hayes, and L.D. Ford. 2007. Monitoring California Grasslands for Native Perennial Grasses Workshop Handbook. 10 July 2007. ESNEER Coastal Training Program, Berkeley, California.

The grassland onsite are primarily perennial in nature, with patches, some large, with few or no perennial grass species; however, the parts without perennial native grasses represent fingers or patches of annual grassland vegetation that make up a mosaic of herbaceous vegetation that provides habitat for many species of wildlife. Most of the wildlife species using this site use both vegetation subtypes (annual versus perennial).



Photographs of grassland areas of Park Hill Estates site with unusually high densities of *Nassella [Stipa] pulchra* (Purple Needlegrass), representing Native Perennial Grassland.

The criteria used by Watershed Environmental and the County to delineate the different habitat types are not clearly stated. Examining the edges of the mapped polygons, it is clear that both took extreme care to minimize the areas mapped as scrub and native perennial grassland. However, the approach taken is not justified since no mapping criteria (methods) were stated or supported by sampling plots (at least they are not shown on any maps). There is no stated minimum polygon size; however, it is clear that the areas of only the shrubs are mapped as scrub even when the distance between shrubs and mapped as annual grassland is less than the width of the shrubs mapped as scrub. For grasslands, the areas with only the highest densities of Purple Needlegrass appeared to mapped as Native Perennial Grassland without consideration of other native grassland species presence.

Page 6, last paragraph of the November 2011 staff report states, “The remaining areas of the site are composed largely of non-native annual grasslands and coastal sage scrub, although individual specimens of purple needlegrass and other native species are scattered throughout these areas.” By most definitions of grasslands, if there are any individuals of a native perennial grass species, or other native grassland species, present then the habitat should be considered perennial native grassland, especially when adjacent areas contain denser cover by the perennial species. Functionally, both areas are quite similar and serve the same needs for wildlife. Without detailed analyses of the two areas with scientifically valid sampling, any separation is entirely arbitrary and unfounded.

Since grasslands throughout California have been reduced by 99 percent already, any remaining grassland habitats are vitally important as habitat for wildlife, and those grassland areas currently dominated by non-native species represent important opportunities for restoration to more native conditions. All the grassland areas at the Park Hill Estates site are functionally equivalent and warrant protection, and impacts to them should be considered a significant impact. The fact that a native perennial bunchgrass, Purple Needlegrass,



is basically found throughout the property at varying densities is strong evidence that all, or at least most of the site should be classified as native perennial grassland.

County General Plan Policy Bio-GV-1 requires the County to provide protection to important or sensitive environmental resources and habitats, yet the November 2011 staff report states that there are no such habitats onsite. County General Plan Policy Bio-GV-14 states that, “to the maximum extent possible, areas of native grasslands shall be preserved”. The fact that both the County and the California Department of Fish and Game, and the California Native Plant Society, consider native perennial grasslands such as Purple Needlegrass Grassland as an important and sensitive habitat should be more than adequate justification to consider this habitat onsite as an important and sensitive environmental resource. Doing otherwise is contrary to General Plan policy. Simple because the property contains a significant amount of a sensitive habitat does not excuse the County from abiding by its General Plan policies. The reasons given by the County as to why protection onsite is infeasible is poorly explained, or explained without evidence in fact that at least a portion of the native grassland cannot be preserved onsite. The fact that a 14+-acre site surrounded by development currently contains high value native grassland habitat clearly demonstrates that relatively small areas of this habitat can be maintained. They should be protected onsite.

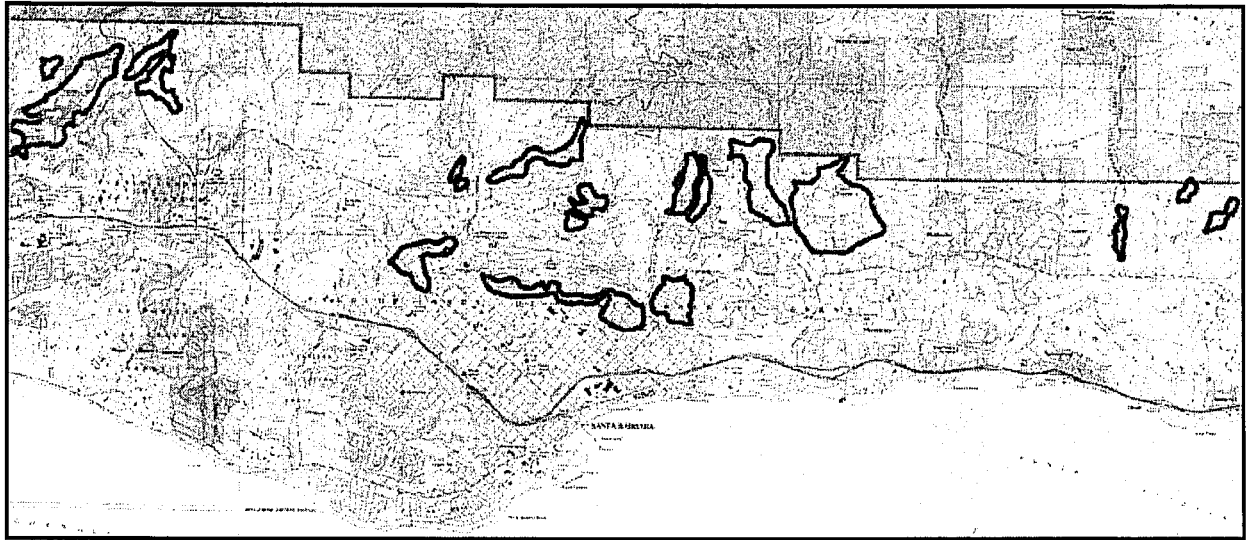
General Plan Policy DevStd BIO-GV-22.2 requires any offsite mitigation site be given “a permanent protective easement”. The University of California is not likely to encumber state property with a protective easement, making the suggested mitigation site unsuitable for mitigation for the Park Hill Estates development.

Question of In-kind Grassland Mitigation

The grasslands and scrub onsite grow in Milpitas stony fine sandy loam soil, 9-15 percent slope (MND page 6, 2nd paragraph). There are only 2,047 acres of Milpitas stony fine sandy loam, 9-15 percent slopes, soil (MdD mapping symbol) in Santa Barbara County as mapped by the Natural Resources Conservation Service, with only 136 acres of it on 2-9 percent slopes, and 1,934 acres on steeper slopes, the later both typically supporting scrub vegetation, not grasslands. The Milpitas soil series is relatively shallow and course-grained, and is classified as a thermic Mollic Paloxeralfs. The vast majority of Milpitas stony fine sandy loam soil, 9-15 percent slope, soils along the Santa Barbara south coast have been developed, most of it occurring in the Santa Barbara and Montecito area, as shown on the map below.

The soils near Coal Oil Point on UCSB property where the proposed offsite mitigation would be contains Concepcion and Diablo soils, not Milpitas. The Milpitas soils are derived from bedrock while the Concepcion soils are derived from alluvium and have a claypan, and are classified as thermic Xeric Argiabolls. Diablo soils are derived from residuum weathered from mudstone and/or soft shale, and are classified as thermic Chromic Pelloxererts. Neither are the same as, or similar to, Milpitas soils. Soil conditions of a mitigation site are one of the most basic considerations that must be accounted for to achieve mitigation success.

Attempting to restore Milpitas stony fine sandy loam soils grasslands on other soil types is a recipe for failure. While it is possible, even likely, to be able to grow Purple Needlegrass on the Diablo clay soils, the diversity and species composition, plants and wildlife, will not be duplicated/replicated there. Clearly there was no attempt by those developing this mitigation measure to truly understand conditions of either site or the feasibility of the mitigation measure. It is only a plan on paper lacking substantiation on many levels.



Map of majority of areas containing Milpitas stony fine sandy loam, 9-15% slope soils (MdD – purple areas). Red area is Park Hill Estates property. Most of this soil mapping unit has already been developed. The gray areas on the topo map background indicated developed lands. Some of the non-gray areas have since been developed as well.

Furthermore, there is not enough available habitat at UCSB's West Campus Bluffs property to accommodate all the grassland mitigation that is needed, even if it were appropriate and contained similar soils. The West Campus Bluffs preserve area is similar in size to that of the project site; however, significant portions of the bluffs site contain vernal pool wetlands. The site is bounded by development on three sides and is no more defensible from encroachments than areas of the Park Hill Estates site that could be preserved. The fact that UCSB has gotten Purple Needlegrass plants transplanted from the project site to the West Campus Bluffs property to survive does not mean that the perennial grassland habitat found onsite can be successfully recreated there.

These factors bring into question whether the offsite location can reasonably or feasibly recreate the same type of grassland habitat to be destroyed at the Park Hill Estates project site. Clearly the soils are very different, and the proximity to the ocean of the West Campus Bluffs site, immediately adjacent to the ocean, is a different microclimate, with substantially more foggy days than the Park Hill Estates site.

Wetland Habitat

The County biologist found a small population of *Juncus occidentalis* (formerly known as *J. tenuis* var. *occidentalis*) in a shallow swale onsite; however, she did not feel that it was extensive enough to map or consider a wetland habitat. *Juncus occidentalis* is listed by the U.S. Fish and Wildlife Service as a Facultative Wetland (FACW) hydrophyte, as indicated in the MND. Since plants typically found in wetland habitats are growing there for a reason, it is curious, and should have sent up red flags, that maybe a shallow groundwater table occurs within the swale they were growing in.

Looking for additional evidence that this might be the case, DMEC reviewed the list of vascular plants reported from the project site to see if there were other hydrophytes present. The results of this examination found a total of 16 species that are found in wetlands at least 50 percent of the time. This is very strong evidence that wetland conditions do indeed occur onsite. Those plants are: *Crassula connata* (FAC), *Eleocharis macrostachys* (OBL), *Hordeum brachyantherum* (FACW), *Leymus triticoides* (FAC+),

Lolium multiflorum (FAC), *Plantago major* (FACW-), *Poa annua* (FACW-), *Plantago lanceolata* (FAC-), *Picris echioides* (FAC*), *Phalaris aquatica* (FAC+), and *Sonchus asper* (FAC-).

Having performed many wetland delineations throughout California, my experience leads me to believe that wetland habitat may indeed be present onsite.

Wildlife

VJS Biological conducted a survey of wildlife in 1998 and reported observations of several bird and mammal species, and one reptile; however, there is no evidence that he conducted any surveys for any invertebrate species. It does not appear that any supplemental surveys for wildlife species were ever conducted onsite, even though VJS Biological's surveys are now over 13 years old. A copy of the wildlife survey report should have been included as an appendix to the MND.

Since wildlife are mobile, and many more species of wildlife are now considered rare, it is of great concern that the County did not consider this component of the biological resources in the current MND.

For example, several species of terrestrial land snails are known to occur in Santa Barbara County (Roth and Sadeghain 2003¹⁸) and that several of them are rare (CNDDDB 2009¹⁹ and Magney 2009a²⁰). DMEC has compiled a GIS database of all terrestrial snails and slugs of California based primarily on Roth and Sadeghain's work and has been identifying those species that are rare based on their distribution and known occurrences, such as for Ventura County (Magney 2009a) and Los Angeles County (Magney 2009b²¹). Based on this work, several species of terrestrial snails known to occur in Santa Barbara County need to be considered for potential for impacts on them. Some of these taxa are considered sensitive by the California Department of Fish and Game's Natural Diversity Database (CNDDDB 2009) and several additional species are currently under consideration for addition to that list based on my research.

Below is a list of the native terrestrial snails and slugs known to occur in Santa Barbara County mainland:

- *Ariolimax columbianus strimineus* (7 counties and 2 islands)
- *Haplotrema caelatum* (4 counties, not on islands)
- *Helminthoglypta cuyama* (1 county, not on islands) – Santa Barbara County endemic
- *Helminthoglypta fieldi* (2 counties, not on islands)
- *Helminthoglypta phlyctaena* (1 county, not on islands) – Santa Barbara County endemic
- *Helminthoglypta umbilicata* (3 counties, not on islands)
- *Hesperarion hemphilli* (8 counties, not on islands)
- *Nearctula rowellii rowellii* (7 counties and 3 islands)
- *Paralaoma servilis* (31 counties and 2 islands)
- *Striatura pugetensis* (32 counties and 2 islands)
- *Zonitoides arboreus* (33 counties)
- And 8 nonnative species. (Roth & Sadeghain 2003.) One species observed onsite by DMEC.

¹⁸ Roth, Barry, and Patricia S. Sadeghain. 2003. Checklist of the Land Snails and Slugs of California. (*Santa Barbara Museum of Natural History Contributions in Science* No. 3.) Santa Barbara, California.

¹⁹ California Natural Diversity Database (CNDDDB). 2009. Special Animals. March. California Department of Fish and Game, Biogeographic Data Branch, Sacramento, California.

²⁰ Magney, D.L. 2009a. Ventura County Wildlife – Terrestrial Snails and Slugs. 1 June 2009. David Magney Environmental Consulting, Ojai, California. Published through the Sespe Institute (www.sespeinstitute.com)

²¹ Magney, D.L. 2009b. Terrestrial Snails of Los Angeles County. 20 August 2009. David Magney Environmental Consulting, Ojai, California. Published through the Sespe Institute (www.sespeinstitute.com)

Those rare species tracked by the CNDDDB known to occur in Santa Barbara County include:

- *Haplotrema caelatum* – Slotted Lancethooth (G1N1 rarity ranking)
- *Helminthoglypta phlyctaena* – Zaca Shoulderband (G1G2N1N2)

There are undoubtedly additional species; however, the list specific for Santa Barbara County has not yet been developed other than what Roth & Sadeghain (2003) compiled. Seasonal surveys for native terrestrial gastropods (includes snails and slugs) need to be performed to determine if one or more rare species are present onsite, and if they would be significantly impacted by the proposed project. CDFG recently (2009) required Newhall Land & Farming Company to conduct such surveys on the Newhall Ranch for similar concerns, and indeed found four species, two of which Barry Roth, PhD., believes may be undescribed species.

This specific issue was raised in DMEC's comment letter on the June 2011 draft MND and totally ignored the proposed final MND. There is fairly high potential for one or more native terrestrial mollusks occurring onsite, and rare species are known to occur in the region. Surveys and an impact assessment must be part of the CEQA review process to be considered adequate.

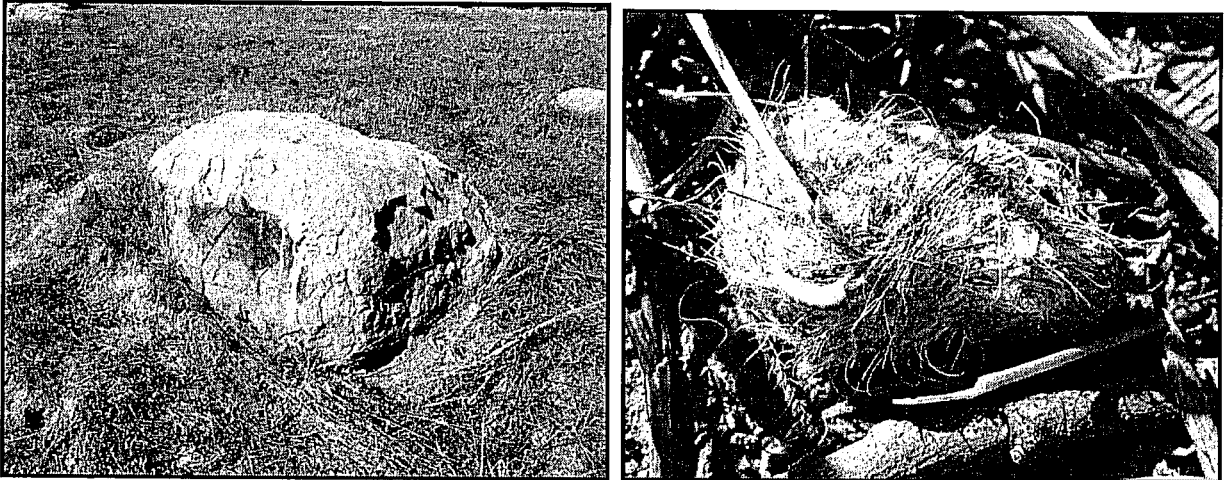
Bird Nests

Calif. Fish & Game Code Section 3503 – prohibits the unnecessary disturbance of any bird nest. Section 3503.5 goes on to prohibit that take of any raptor nest. There is no indication anywhere that a bird nest survey was ever conducted at the project site.

Page 34, e). Specimen Trees, states that the "...removal of one Elderberry tree located on Lot 19, however, this impact would be less than significant given that the tree does not provide significant habitat value for nesting, breeding, or roosting for rare, threatened, endangered, or sensitive species, nor does it provide a significant food source for area wildlife". This conclusion is not substantiated by the evidence and mischaracterizes the facts. No surveys for bird nests were ever conducted except for White-tailed Kite, and that occurred over 12 years ago. There is no evidence that any surveys for active or inactive bird nests of any kind were performed recently. It is well known that suitable nesting sites are not used every year, and that birds will move into unoccupied nesting areas when other sites are already occupied by others, or nesting sites nearby have been destroyed. The probability that there is at least one active bird nest on the 14-acre site is near 100 percent positive. The entire project site needs to be surveyed for active bird nests during the nesting season, generally between March 1st and July 31st.

Burrowing Owl is known to forage and nest in similar habitats as present at the Park Hill Estates project site, such as the Bridle Ridge/San Marcos Foothill property immediately east of State Route 154. It is quite possible that Burrowing Owl, while not observed onsite by Semenson in the late 1990s, could have colonized the project site since then.

DMEC observed raptors using the property during its cursory survey of the property in late October 2011, including American Kestrel and Barn Owl. An owl species, likely Great-horned Owl, uses the boulder rock outcrops as foraging posts and eating stations as evidenced by droppings and owl pellets, as shown on the photographs below.



*Left: white wash bird droppings on a boulder rock outcrop onsite, typical for raptors.
Right: large owl pellet found below old sign post onsite, mostly likely from a Great-horned Owl.*

Staff Report to Planning Commission 2007

The original project, approved in 2007, for the same project site consisted of 12 single-family residences and associated facilities on the 14+-acre site. A 2.2-acre open space lot would contain associated facilities (detention basin) and onsite mitigation for impacts to biological resources.

The assessment of biological resources was based on Watershed Environmental's 1999 and VJS Biological's 1999 reports on botanical and wildlife resources, respectively, as well as opinions of the County biologist.

Since the project avoided some of the impacts to native grassland habitat and the mitigation was proposed to occur onsite, the project was considered to be consistent with the Goleta Community Plan.

Unavoidable cumulative impacts resulting from the project were considered "covered" by a finding of overriding considerations in adopting the Goleta Community (Comprehensive) Plan EIR, as unmitigatable, and no further analysis was required for the Park Hill Estates project (version 1) (see pages 14 and 21 of the 2007 staff report to the Planning Commission).

Inadequacy of Proposed Mitigation Measures

Three proposed mitigation measures focusing on biological resources have serious flaws that make them inadequate or insufficient to reduce stated impacts to less than significant, and need to be amended.

Mitigation Measure Bio-1 (Tree Protection Plan) is intended to protect mature Coast Live Oak trees during construction activities, to just 6 feet beyond the tree driplines. International Society of Arboriculture (ISA) strongly recommends that no disturbance occur 15 feet beyond a tree's dripline or at least 15 feet from the trunk if the canopy is less than 15 feet in any location. The mitigation measure needs to require that construction activities within 100 feet of any tree to be protected be monitored by a Certified Arborist. The Arborist should be empowered to stop all work that may damage a protected tree. The County should also require that a Certified Arborist inspect all the protected trees after all construction has been completed and submit an assessment report for each tree to the County prior to issuing an occupancy permit. The

current proposal states that a qualified biologist may conduct the monitoring. A biologist who is not a certified arborist lacks the specific training and credentials to make appropriate assessments to protect or assess a tree's health. It is inappropriate for the County to allow anyone other than a certified arborist to conduct the monitoring and assessments.

Mitigation Measure Bio-Sp2 (Native Grassland Compensatory Mitigation Plan) requires a minimum of 6.14 acres of native perennial grassland habitat be restored to compensate for the destruction and loss of 3.07 acres of Purple Needlegrass Grassland. This is in conflict with the Goleta Valley Plan Policy BIO-GV-14, which requires that native grasslands be preserved to the maximum extent possible. Clearly, the proposed project makes no attempt to preserve *any* of the native grasslands onsite, even though a previous project approved by the County did exactly that, and the developer believed that the project was still economically viable.

Regardless, the location and condition of the restoration site is not specifically identified and there is no provision to determine what sensitive biological resources are present at that site. The mitigation site will be nearly half the size of the entire project site, and has great potential to contain one or more sensitive biological resources. This is a violation of CEQA in that all components of a discretionary project must be evaluated as one project. The mitigation site(s) must be identified in the CEQA document and activities at them must be evaluated as part of the proposed project. Furthermore, the proposed mitigation measure does not include remedies for total or partial failure of the mitigation.

As stated earlier, the proposed grasslands mitigation site at UCSB's West Campus Bluffs property between Coal Oil Point and Isla Vista is nearly the same size as the Park Hill Estates site and is bounded by dense urban development to the northwest, north, and east, with the Pacific Ocean directly to the south. The soils on the mitigation site are quite different than occurs at the project site. Soil texture, slope, and condition are critical factors in any habitat mitigation plan; however, this fact has been entirely ignored by the County and Watershed Environmental. Preserving blocks of the grasslands onsite has a much higher chance of success than attempting to restore degraded habitat elsewhere on different soils.

Mitigation Measure Bio-21 (Use Natives) requires native plant material to be used in the rear of Lots 11 and 12, presumably to protect adjacent native habitat to be retained. While this is laudable, it will hardly be effective in protecting natural habitats. DMEC recommends that all landscaping within the project site must be of native plants indigenous to the Santa Barbara region and that the landscapes be designed to minimize the amount of irrigation necessary to maintain the landscaping. The mitigation measure, or an additional measure, needs to also prohibit the planting of any invasive exotic species as listed by CalIPC or the California Native Plant Society.

The MND lacks any mitigation measures to protect raptor nests that occur onsite. The MND lacks any mitigation measures to protect active bird nests other than raptor nests. Migratory birds are protected by international treaty, and that protection extends to their nests and habitat. California Fish & Game Code Section 3503 protects the nests of all birds. While proposed Mitigation Measure Bio-Sp3, Raptor, Special Status Species, and Bird Nest Protection, requires surveys to be conducted for any and all bird nests prior to construction and construction needs to be prohibited from within a safe distance from any active bird nest, typically 500 feet for raptors and 300 feet for other species, it does nothing to mitigate for the loss of bird nests onsite.

Mitigation Measure Bio-Sp2 proposes that all the impacts to native grassland onsite would occur in Isla Vista on UCSB property that is planned for restoration by the University. Pages 15-16 of the November 2011 staff report states, "Off-site mitigation is considered to be a viable option in this case for the following

reasons: (1) there is a minimum of 500-600 ft. of existing development surrounding the project site separating it from the adjacent natural habitats of San Antonio Creek and Maria Ygnacio Creek; (2) on-site avoidance and/or restoration options would result in isolated, low-functioning grassland areas; and (3) feasible off-site restoration has been proposed.”. There are several problems with this approach.

First, the landforms of the two sites are quite different. The soils are different. The microclimates are different. It is unreasonable to expect that the exact, or even near conditions of the grassland habitats at the project site can or will be recreated on the coastal terrace site at UCSB, primarily because site conditions are so different. No one has yet fully duplicated natural habitat through restoration. Natural habitats such as native grasslands take hundreds if not thousands of years to develop, and grow in well-developed soils. The geomorphic landscape on which the project site occurs is significantly different than the geomorphic landscape of the proposed UCSB mitigation site, which is much younger geologically than the project site.

Page 34, paragraph 4 of the MND states, “(2) on-site avoidance and/or restoration options would result in isolated, low-functioning grassland areas”. This claim is false and unsubstantiated. The fact that a 14+-acre site surrounded by urban developed currently contains high-functioning grassland habitats is hard evidence of the fact that small areas of natural habitat can and do exist, and provide important and valuable habitat functions. Really, the only results likely at the mitigation site, based on the prescriptions provided in the habitat restoration plan by Watershed Environmental would be a crop of Purple Needlegrass at the mitigation site, which is also immediately adjacent to urban development. This would in no way mitigate the impacts to an important grassland habitat.

CEQA requires that all aspects of a project undergo an assessment of effects, including that of proposed mitigation sites. No such assessment of the proposed mitigation site has been performed, nor has any documentation of the mitigation site been provided as part of the record. There is no evidence provided that the County has even visited the proposed mitigation site.

Page 35, paragraph d) Non-native Vegetation of Habitat Value, grossly mischaracterizes habitat conditions and ecological processes onsite. First, the area of grassland habitat dominated by non-native species is exaggerated. Second, the County claims that non-native herbs and grasses will continue to colonize the site grasslands from adjacent sources. As explained earlier, characterization methods used by Watershed Environmental and the County were seriously flawed, biased, and not substantiated by statistically valid sampling, or by proper seasonal field surveys. There is little if any “sources” of invasive exotic grassland species on adjacent developed lands, so to claim that any remaining grasslands preserved onsite would be threatened by continual invasion/recolonization from adjacent lands is unsubstantiated and false. The only intent of such claims is to bias decisionmakers away from preserving valuable habitat onsite.

Preservation of grassland habitats onsite is indeed a viable option to avoid and minimize project-related impacts to valuable grassland habitats, and actually much more viable than attempting to recreate them offsite on an entirely different geomorphic landscape. Controls on what species are used in landscaping is a common and routine method of minimizing future problems of colonization of protected areas from new development sites. This is in-fact exactly what Mitigation Measure Bio-21, Use Natives, requires (page 40 of the MND).

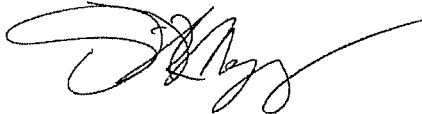
Page 36, paragraph e) Specimen Trees, claims that the native and non-native trees onsite are not considered healthy specimen trees; however, there is no evidence provide by a certified arborist or the criteria followed to make such a determination. Such a description of the trees onsite represents an unqualified opinion without any reasoned basis. Every tree has value and function. How much value and what functions it/they provide depends on a wide number of variables, none of which where considered by the County or the

developer's environmental consultant. The trees should be assessed and appraised by a qualified arborist, such as those certified by the International Society of Arboriculture (ISA).

In conclusion, DMEC believes that the County cannot reasonably perform an impact assessment of the proposed project since the biological surveys of the project site are both seriously dated (i.e. out of date), inadequate in not surveying for entire groups of plants (nonvascular plants) and wildlife (invertebrates). Since true baseline conditions are not truly known, it is impossible for anyone to make reasonable conclusions regarding significance of impacts on the biological resources present on the 14+-acre project site. Furthermore, measures recommended to reduce what significant impacts that were identified are either inadequate or infeasible. There was no attempt to avoid any of the project-related impacts to biological resources.

Please contact me if you have any questions about this letter.

Sincerely,



David L. Magney
President/ISA Certified Arborist

cc: Danny Vickers, San Antonio Creek HOA
David M. Brown, Conservation Committee Chairman, Channel Islands Chapter, California Native Plant Society

Tuttle, Alex

From: conservation@cnpsci.org
Sent: Tuesday, July 19, 2011 7:36 PM
To: Tuttle, Alex
Subject: Park Hills Estates DraftMND v.2 (10TRM-00000-00001) comments

Dear Mr. Tuttle,

I am submitting comments on the Park Hills Estates Draft MND v.2 (10TRM-00000-00001) on behalf of the Channel Islands Chapter of the California Native Plant Society. We realize that these comments are submitted past the official deadline of July 18, but understand that the relevant biological documents have not yet been made available for review and thus the deadline has functionally been extended.

We are very concerned that the Park Hills Estates Draft MND is based on wholly inadequate baseline biological data. The presence of 16 wetland plant species and potential wetland topography indicates that federally and state protected wetland habitat may be onsite. There is no adequate delineation of this potential wetland habitat in the draft MND.

The botanical survey of the Park Hills Estates site was not done in accordance with accepted CNPS procedure. Most glaringly no rare plant survey was conducted at the time of year (mid-to-late spring when most of these species are likely to be in bloom.

We urge that wetland delineations and scientifically valid rare surveys that truly conform to accepted protocols must be conducted in order to adequately conform to CEQA.

Thank you.

David Brown
Conservation Chair, Channel Islands Chapter California Native Plant Society

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

FILE COPY

JEFFREY C. NELSON

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

January 20, 2012

Chair Cooney and Planning Commissioners
Santa Barbara County
Planning Commission
123 E. Anapamu St.
Santa Barbara, CA 93101

Re: **Park Hill Estates v.2**
Hearing Date: January 25, 2012
Agenda item number: 1

SEARCHED _____
INDEXED _____ **1**
SERIALIZED _____
DATE: _____ **1-25-12**

Dear Chair Cooney and Commissioners,

This is a brief follow up on some issues raised at the hearing on December 5, 2011

The two main issues for this property have been how to deal with the native grasslands and deal with the County's affordable housing requirement. The current solution for grassland is a significant public benefit compared to the 2007 solution of having grasslands in 5 back yards and a detention basin. The on-site affordable in conjunction with a minimal bonus density is a better solution than paying \$1.2 to \$1.4 million in in- lieu fees.

2007 Plan Compared

The neighbors have falsely recalled and portrayed their 2007 input. They were not "happy campers" in completely buying in to the 2007 plan. We watched Planning Commission tapes before filing the new plan and again recently. The then president of the San Antonio Creek Homeowners Association said "

"Visually it's going to be an aesthetic nightmare. These are huge massive structures at 5,000 square feet with each lot having up to what is it... 1,200 square foot second units. That is a lot more bulk added to these lots. **I do think that it is not compatible with the area. And it is a negative thing for the neighborhood.**"
(SA Creek HOA president -Susan Grgich Park Hill April 2007)

Both Mr. and Mrs. Vickers said then that definitely there will be 24 homes and families from the 12 lots as they were certain every lot would have a second unit.

Other concerns were that the build out could last 15-20 years, and Emergency Egress implications of having horses onsite. We have designed the lots and pads to virtually prevent either second

RECEIVED

JAN 20 2012

S.B. COUNTY
PLANNING & DEVELOPMENT

units or horses onsite meaning the 16 residences will be less than the neighbors expressly assumed would result from 2007 plan. The maximum square footage is only increased 9% for the site as compared to the 2007 approval and building heights were set to accommodate reasonable neighbor's interest and were all below what was required in the 2007 ND.

See attached chart on 2007 plan compared to the current plan.

Repeatedly through the years neighbors express great fear of change in each new project but then quickly become accustomed to them when they are built. We trust this will be the same here.

For neighbors here whose only planning references and experiences are the 2007 and 2011 versions of Park Hill, they do not have the perspective to realize how incredibly low the density of 1.08 units per acre is in the greater planning context.

Lot 10 the northwest Lot

The Sheldons have questioned & objected to the building pad and lot height on this lot. We have explored that issue; we met Mr. Sheldon on site today and have the following comments.

This lot is 1.07 acres which is bigger than its corollary lot in 2007. We replaced what had been three lots that connected to the western property line in 2007 with only two. Flowers & Associates, the Civil Engineers, who have great experience, kept the building pads the same as was approved in 2007 at 340 elevation.

This lot's building pad elevation of 340 is designed to permit positive drainage back to the detention basin and have gravity flow of the sewer.

This is the only lot that is above its existing grade but was done at this grade for proper civil engineering purposes both in 2007 and in the current plan.

We spoke to Paul Jensen of Environmental Health about what would the implication be if we dropped the building pad 3 or 4 feet so that it set below the new private road. He said that the required private sewer pump station that would be necessary is inconsistent with the policy of the sewer provider- Goleta Sanitary District.

Also, he said that the new Community Plan that has been initiated does not allow such lift stations. It would only be creating a functional and regulatory problem to deviate from the gravity flow called for by the civil engineers in both the 2007 and 2011 plans.

The EHS condition letter recognizes that the project plan has sewage disposal via gravity flow to an existing sewer main in Via Los Santos. It raises a new issue for them if it is not gravity flow.

As to the view implications, the 2007 plan had a triangular lot that required the building mass to be out towards the Sheldon's in the northwest corner. The current lot design was specifically made to accommodate a courtyard home where the building mass could be farther from the northwest corner. The view between the homes can be screened with a hedge, which would be

desirable from the standpoint of both homes. We would commit to plant an appropriate hedge along this westerly border.

The reality is that the Sheldon's home is a significant distance from the heart of the building pad, about 275 ft. Our backyard setback will average about 180 ft. when the zoning backyard setback minimum is 10 ft.

We have agreed to reduce the building height on that lot to 22 ft. which is a minimum height for a quality residence there.

The solution for this issue is ultimately hedge screening between the homes along the property line or near it. We discussed this with Mr. Sheldon; we expressed our genuine interest in shielding their house from the view of the home on lot 10 so that one's view goes to the more distant view beyond their house. This is a common issue and solution not unique to this situation.

It is important the County condition be modified to allow hedge screening on the west end of lots 10 and 11 not just native plants. We would also agree to limit the building height for any portion of the house within 20 ft. of the outer edge building pad to be 18 ft.

We believe the meeting with Mr. Sheldon onsite was a positive step. We discussed a potential landscape easement that would be beneficial to the Sheldon's property in this regard.

Infill, NIMBY's and Bonus Density

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. It also addresses the entirely unreasonable and infeasible \$1.2 million in-lieu fee. Our initial plan had two more lots. 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.

Some neighbors have been grasping at straws to defeat this project including hiring a biologist who tried to disrupt and thwart The Preserve at San Marcos.

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

The County biologist is prepared to respond to the issues raised by the biologist hired by neighbors; the biologist who has done site specific studies periodically over the last decade , Mark

de la Garza (Watershed Environmental) was at the PC hearing of Dec. 5, 2011 and addressed the Commission. He is also preparing an additional letter response to be submitted before the hearing on the 25th.

I see a new group has written a letter to the County asking why it is rushing this through for approval without any explanation of why we want changes from the 2007 approval. That is a further example to us of how the NIMBY dynamic is based on incomplete to false information being disseminated to generate panic and opposition at the end of the process from people who have not been uninvolved until then.

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. It was filed in April 2010 with the project identifying the exact changes it wanted from the prior approval, and exactly why.

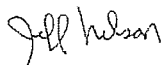
We proposed the compromise plan currently before you and asked neighbors if that would address their issues. We did not have to make those changes if they were going to oppose this plan as much as the one with two more units. We waited six weeks trying to get a response and they did ultimately not respond yes or no, so we just proceeded ahead with the compromise plan which we think creates excellent lots throughout the project.

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 you 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 emergency access route down San Antonio Creek Road and through Tuckers Grove is a short 1/3 mile from the bottom of this property and if in any respect it is viewed as inadequate or unavailable such that it impacts this Park Hill property, the County of Santa Barbara has unmistakable liability for this since after the current owners bought the property the County saw fit to change that road from a full public road to an emergency or alternative access road rather than a full access public road.¹

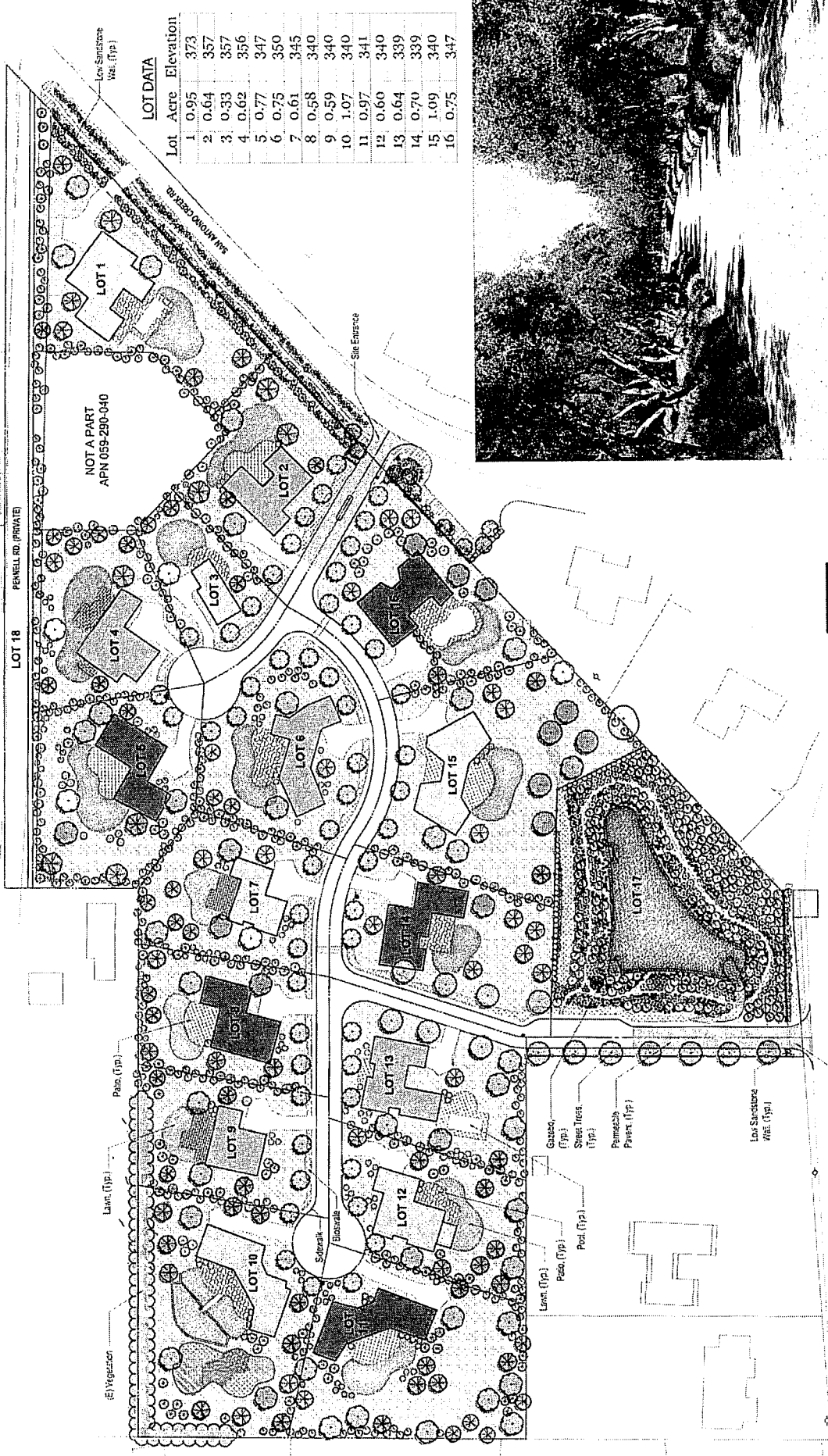
Very Truly Yours,



Jeffrey C. Nelson

¹ Indeed that route is more useable now than in 2007 as the County has removed the bollards that existed there then. Commissioner Brown suggested that issue be addressed by the County in 2007 while saying there was no nexus between it and the Park Hill project. The County did indeed make it more passable.

	Park Hill v.1 (2007 Plan)	Park Hill v.2
Units	12 (Neighbors assumed 24 total with 2 nd units)	16, 15 market rate units, 1 affordable
Useable acreage	11.62, as 2.73 is unusable grassland	14.35 acres
Density	.84 units per acre	1.1 Units per acre
Density per useable acre	1.03 units per acre	1.1 units per acre
Avg. lot size	1 acre, but not all usable because of grassland restoration	.75 acres
Roads	2 private roads	2 private roads & cul de sac,
Retention Basin	2.2 acres. Unusable because of grassland restoration	1.68 acres. Planted with native materials but usable with grassland restoration offsite.
Grassland Restoration	Onsite restoration of 2.73 acres including all of the retention area space and restoration in backyards of 5 lots.	6 acres restoration at UCSB West Campus Bluffs in partnership with Cheadle Center for Biodiversity.
Max. Square footage	5,500 per lot maximum	5,500 sf. Max for two largest lots, 5,000 sf. Max. two lots, remaining 10 no larger than 4,600 sf. Affordable max. 2,600 sf.
Setbacks	50 ft.	40 ft. between structures
Building Heights	MND's only requirement was three limited to 25 feet. Calculated from existing grade made building some lots infeasible. Applicant agreed to limits of 18-22 ft. with all but 4 at 22 ft.	Heights measured from finished grade. 3 lots at 25 feet (2 nd story element), 11 others at 22 ft. (1 story) with the affordable lot at 18 ft.
Grading Standards	Minimize fill and naturalize contours to the extent feasible.	Same
Second Units	Second units allowed and anticipated by neighbors.	No second units by design- building pad design does not allow for 2 nd units
Affordable	Infeasible in lieu fee, escalated from \$784,000 to \$1,200,000	1 affordable rental unit- 2 BR 2,600 sf, max sq. footage
Road Fees	Standard road fees.	Fee's increased. County Roads said fee could be used for SA Creek Road improvements including a sidewalk or walking path.
Grading	17,450 cut, 17,450 fill	12,500 cut, 12,500 fill (roads narrower)
Street width	32 ft. Cozy Ln./24 ft. Cozy Dr.	28 ft./ 24 ft.



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



Entry Concept



DAVID R. BLACK & ASSOCIATES
 ARCHITECTS

ILLUSTRATIVE SITE PLAN
PARK HILL ESTATES V/2
 October 12, 2011
 For the Oak-Crest Co.

SAN ANTONIO CREEK RD

VA LOS SANTOS

Site Entrance

Los Sactacion Hill (Typ.)

Power (Typ.)

Palmazals

Street Trees (Typ.)

Gazebos

Post (Typ.)

Patio (Typ.)

Lawn (Typ.)

Patio (Typ.)

Lawn (Typ.)

Vegatation

Bioswale

Site Entrance

Los Sactacion Hill (Typ.)

Power (Typ.)

Palmazals

Street Trees (Typ.)

Gazebos

Post (Typ.)

Patio (Typ.)

Lawn (Typ.)

Vegatation

Bioswale

Site Entrance

Los Sactacion Hill (Typ.)

Power (Typ.)

Palmazals

Street Trees (Typ.)

Gazebos

Post (Typ.)

Patio (Typ.)

Lawn (Typ.)

Vegatation

Bioswale

Site Entrance

Los Sactacion Hill (Typ.)

Power (Typ.)

Palmazals

Street Trees (Typ.)

Gazebos

Post (Typ.)

Patio (Typ.)

Lawn (Typ.)

Vegatation

Bioswale

Site Entrance

Los Sactacion Hill (Typ.)

Power (Typ.)

Palmazals

Street Trees (Typ.)

Gazebos

Post (Typ.)

Patio (Typ.)

Lawn (Typ.)

Vegatation

Bioswale

Site Entrance

Los Sactacion Hill (Typ.)

Power (Typ.)

Palmazals

Street Trees (Typ.)

Gazebos

Post (Typ.)

Patio (Typ.)

Lawn (Typ.)

Vegatation

Bioswale

Site Entrance

Los Sactacion Hill (Typ.)

Power (Typ.)

Palmazals

Street Trees (Typ.)

Gazebos

Post (Typ.)

Patio (Typ.)

Lawn (Typ.)

Vegatation

Bioswale

Site Entrance

Los Sactacion Hill (Typ.)

Power (Typ.)

Palmazals

Street Trees (Typ.)

Gazebos

Post (Typ.)

Patio (Typ.)

Lawn (Typ.)

Vegatation

Bioswale

Site Entrance

Los Sactacion Hill (Typ.)

Power (Typ.)

Palmazals

Street Trees (Typ.)

Gazebos

Post (Typ.)

Patio (Typ.)

Lawn (Typ.)

Vegatation

Bioswale

Site Entrance

Los Sactacion Hill (Typ.)

Power (Typ.)

Palmazals

Street Trees (Typ.)

Gazebos

Post (Typ.)

Patio (Typ.)

Lawn (Typ.)

Vegatation

Bioswale

Site Entrance

Los Sactacion Hill (Typ.)

Power (Typ.)

Palmazals

Street Trees (Typ.)

Gazebos

Post (Typ.)

Patio (Typ.)

Lawn (Typ.)

Vegatation

Bioswale

Site Entrance

Los Sactacion Hill (Typ.)

Power (Typ.)

Palmazals

Street Trees (Typ.)

Gazebos

Post (Typ.)

Patio (Typ.)

Lawn (Typ.)

Vegatation

Bioswale

Site Entrance

Los Sactacion Hill (Typ.)

Power (Typ.)

Palmazals

Street Trees (Typ.)

Gazebos

Post (Typ.)

Patio (Typ.)

Lawn (Typ.)

Vegatation

Bioswale

Site Entrance

Los Sactacion Hill (Typ.)

Power (Typ.)

Palmazals

Street Trees (Typ.)

Gazebos

Post (Typ.)

Patio (Typ.)

Lawn (Typ.)

Vegatation

Bioswale

Site Entrance

Los Sactacion Hill (Typ.)

Power (Typ.)

Palmazals

Street Trees (Typ.)

Gazebos

Post (Typ.)

Patio (Typ.)

Lawn (Typ.)

Vegatation

Bioswale

Site Entrance

Los Sactacion Hill (Typ.)

Power (Typ.)

Palmazals

Street Trees (Typ.)

Gazebos

Post (Typ.)

Patio (Typ.)

Lawn (Typ.)

Vegatation

Bioswale

Site Entrance

Los Sactacion Hill (Typ.)

Power (Typ.)

Palmazals

Street Trees (Typ.)

Gazebos

Post (Typ.)

Patio (Typ.)

Lawn (Typ.)

Vegatation

Bioswale

Site Entrance

Los Sactacion Hill (Typ.)

Power (Typ.)

Palmazals

Street Trees (Typ.)

Gazebos

Post (Typ.)

Patio (Typ.)

Lawn (Typ.)

Vegatation

Bioswale

Site Entrance

Los Sactacion Hill (Typ.)

Power (Typ.)

Palmazals

Street Trees (Typ.)

Gazebos

Post (Typ.)

Patio (Typ.)

Lawn (Typ.)

Vegatation

Bioswale

Site Entrance

Los Sactacion Hill (Typ.)

Power (Typ.)

Palmazals

Street Trees (Typ.)

Gazebos

Post (Typ.)

Patio (Typ.)

Lawn (Typ.)

Vegatation

Bioswale

Site Entrance

Los Sactacion Hill (Typ.)

Power (Typ.)

Palmazals

Street Trees (Typ.)

Gazebos

Post (Typ.)

Patio (Typ.)

Lawn (Typ.)

Vegatation

Bioswale

Site Entrance

Los Sactacion Hill (Typ.)

Power (Typ.)

Palmazals

Street Trees (Typ.)

Gazebos

Post (Typ.)

Patio (Typ.)

Lawn (Typ.)

Vegatation

Bioswale

Site Entrance

Los Sactacion Hill (Typ.)

Power (Typ.)

Palmazals

Street Trees (Typ.)

Gazebos

Post (Typ.)

Patio (Typ.)

Lawn (Typ.)

Vegatation

Bioswale

Site Entrance

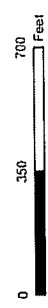
Los Sactacion Hill (Typ.)

Power (Typ.)

Palmazals

Street Trees (Typ.)

Gazebos



Date of Aerial - August 2008
One inch = 350'

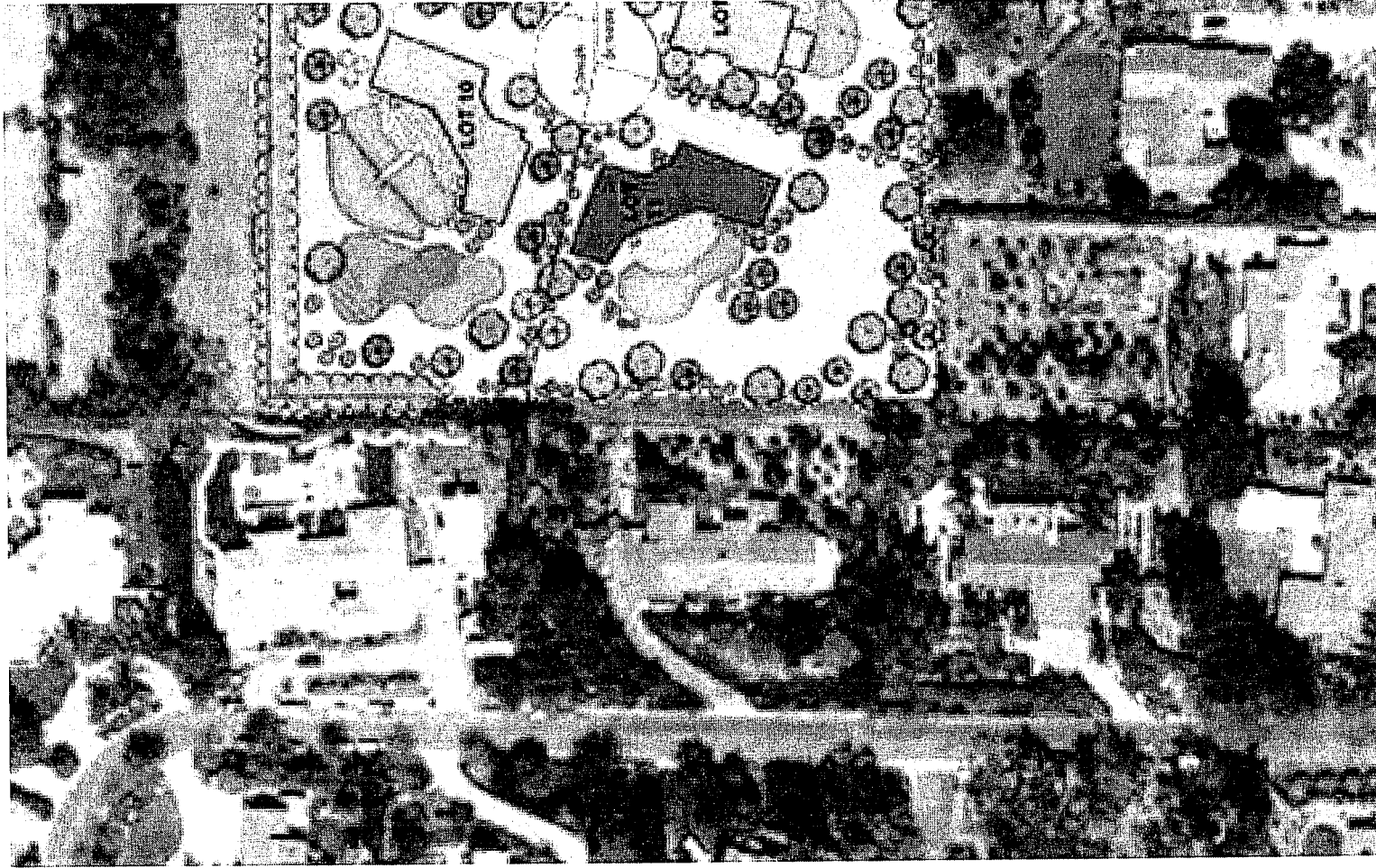
2706 Via Los Santos Area Properties

El Cerrito Ln

San Marcos

Via Regina





To: Alex Tuttle
Re: Park Hill Estates - Revised MND
From: Nancy and Michael Sheldon, 1014 Via Los Padres

FILE COPY

1
1-28-12

While, we do not agree with many of your findings in the revised MND we would like to respond specifically to one specific section that we are having significant trouble understanding.

In section 2.2.3 you write *the pads on Lots 10 and 11 need to be "raised slightly above the finished grade of the road"*:

The statement "raised slightly" is misleading because you make reference to the road and not to their current position. Right now the building pad for Lot 10 is 330 feet above sea level. Jeff is proposing to raise the pad by 8 – 10 feet or to 340 feet. **This is NOT slight.** This is significant, especially when you are the homeowner that is living directly behind this lot. Our home is at 318 feet so there is already a slope up behind us. If this building pad is raised 10 feet and a 25 foot home is built on it, it will be a tower on a perch.

You also state *These slopes would be vegetated and landscaped consistent with the project conditions of approval, which would help to ensure that the slopes are not unattractive to view. Furthermore, views of these slopes would only be available from a small number of private residences.*

Here, you make no mention of how the **home itself** will look to the small number of private residences nor how their view into the existing homes will look. They will tower over us. We would have to build a 30 foot hedge to get any sense of privacy. This turns us from Park Highlands into Montecito – with high high hedges. We all have large lots and are not currently looking into each others homes.

You do not have to build up to make the topography work! We have met with a reputable local civil engineer. **He was very confident that stepping down the homes on lots 10 and 11 is easily doable.** He knows that the county has and will continue to approve projects even when sewage has to be pumped up hill.

When we bought our home we always knew there would be development behind us and we would have neighbors to the east. What we never would have anticipated was that the land behind us would be RAISED and put us in a fishbowl.

We urge you to take a second look at this section and make a recommendation that there is no infill needed to make this project work. We respectfully appreciate your consideration.

Thank you,

Nancy and Mike Sheldon
1014 Via Los Padres
805-886-4653

RECEIVED

JAN 19 2012

S.B. COUNTY
PLANNING & DEVELOPMENT
HEARING SUPPORT

Villalobos, David

FILE COPY

From: Tuttle, Alex
Sent: Thursday, January 19, 2012 8:39 AM
To: Villalobos, David
Subject: FW: Park Hills Review Findings

Categories: Prof Misc

RECEIVED

1-25-12

From: Regina Magid [mailto:SoldAtReginaMagid@cox.net]
Sent: Wednesday, January 18, 2012 8:12 PM
To: Tuttle, Alex
Cc: Almy, Anne; Danny and Mary Vickers
Subject: Park Hills Review Findings

RECEIVED

JAN 19 2012

S.B. COUNTY
PLANNING & DEVELOPMENT
HEARING SUPPORT

Mr. Tuttle,

I have reviewed the County findings posted on December 5 in Attachment A and strongly disagree with a following:

Re: CEQA findings item 1.2

I strongly disagree that Negative Declaration has properly addressed the effect of the proposed PHE development to our neighborhood environment. The perspective developer's biologist(s) have **NOT completed a research to the extend that CEQA is requiring, neither they completed it during the required (by CEQA) seasons of the year.**

I also believe that **native grasslands should be restored onsite to protect the native habitat and foraging area for birds of prey**, and I am concerned that the details of an offsite mitigation plan for native grasslands **have not been provided to the public**, and there is no guarantee that the site selected will be approved by the various regulatory entities. In addition, the Negative Declaration does **NOT** describe any consequences if the offsite mitigation plan is not implemented.

Our biologist, David Magney, has provided an important information on our neighborhood behalf that so far has been ignored by the County Planning Dept. This information should be read carefully by Planning Dept and submitted to County Panning Commissioners **PRIOR to the Hearing for a review**. Also, we request that our biologist would be allowed enough time to present his findings at the Hearing on January 25th.

Re: Tentative Map findings item 2.2.5

I very strongly disagree with a finding stating that a proposed PHE development will not potentially create a hazard to life or property from fire or other catastrophes.

As you all know, this neighborhood has suffered from Panted Cave fire and was evacuated three times during the year of 2010.

Please note that we have in our neighborhood 47 BUILDABLE LOTS, already approved and ready to be developed, and realistically speaking they will be developed during the next 10 years or sooner. Please note that 47 homes will bring to the neighborhood **additional 100-150 cars** passing by on San Antonio Creek and Via Los Santos streets endangering the street walkers and **extremely endangering our neighborhood during the future fire evacuations**. So, please evaluate this important information carefully before you consider approving additional

number of lots for this neighborhood, as, otherwise, you will be potentially endangering our lives as we DO NOT have adequate emergency exits other than San Antonio Creek Rd and Via Los Santos.

As a neighborhood safety representative I have investigated very closely and I would like to make it very clear that EXIT THROUGH THE TUCKERS GROVE PARK IS INADEQUATE FOR FIRE EVACUATIONS, AS IT COULD BE A POTENTIAL TRAP RATHER THAN SAFETY EXIT.

We, San Antonio Creek area neighbors, wrote about it in our petitions, we sent emails, and we voiced it during the Planning Commission Hearing, and now we clearly see that **OUR ELECTED OFFICIALS DO NOT HEAR US.**

We live up in the hills and fire concern here will remain probably forever, therefore, we ask that SB County Planning Dept and Planning Commissioners would hear us out and take our concerns seriously.

Regina Magid
SAC Neighborhood Safety representative

Villalobos, David

From: Steven Zeluck [s_zeluck@yahoo.com]
Sent: Wednesday, December 07, 2011 4:42 PM
To: Villalobos, David; Michael@igsb.com; Brown, Cecilia; mebrooks@sbceo.org; Tuttle, Alex; Almy, Anne; Russell, Glenn; McCurdy, Alice
Subject: re Park Hill Estates v2 - comments from Steven Zeluck, co-owner, 4700 Via Los Santos

FILE COPY

RECEIVED

Categories: Prof Misc

DEC 07 2011

Commissioners & Planners:

S.B. COUNTY
PLANNING & DEVELOPMENT
HEARING SERVICES

MEETING
DATE: 1-25-12

It has come to my attention that there has been another continuance in the matter of Park Hill Estate v2. I request that this be the last of a series of continuances. I understand the County's desire to hear out and accommodate all parties, and I feel that has more than been accomplished. I hope that the hearing of January 25th will determine the matter and I will make every effort to be in attendance. I wish to address or readdress some of the issues before you.

Much has been made of the fire danger. Wildfire is a fact of life for residents of Southern California as earthquake is for residents of San Francisco, where I live. We do not hesitate to build here in San Francisco because there is an ongoing earthquake hazard. What we do however is exercise precaution, that is, we build seismically sound structures that will withstand earthquake. No-one in their right mind suggests that building in San Francisco should not occur because of the earthquake danger. Likewise, it is highly absurd to suggest that because of wildfire danger homes should not be built. What should and does occur is that homes are built with a mind to fire safety, that there is adequate egress in case of fire, and that the residents exercise preparedness for the eventuality of an emergency situation. The claim made at the recent hearing that there is only one egress route to Park Hill Estates v2 is factually incorrect, to put it politely. And I ask you, if the residents were so frightened of fire danger why did they choose to live in the area to begin with? Apparently they did not think the fire danger severe enough to exclude them from the area. Fire danger exists whether or not Park Hill Estates v2 exists or not. The existence of Park Hill Estates v2 will make negligible difference in time of egress. But what may occur is that fires that would have broken out in the current state of open grassland will in fact no longer occur. Park Hill Estates v2 may in fact further fire safety in the area.

Note: As a UCSB student 1969-71 I used to drive through Tucker's Grove Park on San Antonio Creek Road on my way to and from school each day when the road through the park was a public road. In fact I thought of that route as the primary way to get to and from our home on Via Orquidea. I hardly ever used Via Los Santos since Tucker's Grove was a quick in and out. Certainly the road through Tucker's Grove should, could and must be used for effective emergency egress. I think this is a red herring issue and the impact of Park Hill Estates v2 will be quite minor in times of emergency. If the neighbors are that worried about emergency egress then I suggest they sell their homes immediately and move elsewhere, since Park Hill Estates v2 will not endanger their lives in any measurable way, one way or the other.

The same logic holds true for the furor that is being made of the native grasslands. Again, if this was so important why were the neighbors' homes approved for building, since they are in essence on the same large parcel of land as Park Hill Estates v2? Could it be that the current residents did not care enough about the native grasslands that their houses may or may not have destroyed to reconsider living in the area? Now suddenly they are all rabid environmentalists. Doesn't that seem odd to you? It does to me! And is not the mitigation plan with UCSB, a plan that the folks at Cheadle Center are

very agreeable to mean anything to anybody? Why won't the adjoining property owners acknowledge the benefits of the mitigation plan put forth in the MND as being a very excellent idea for Goleta and UCSB? I wonder why there is a lack of community spirit among these owners. Is there anyone else with the same question in their minds?

Let's consider the issue of density that the adjoining property owners noisily complain about. Do they actually believe that a Lefrak Village or a Levittown will be constructed next to them? If someone landed from another planet and listened to their moaning and groaning about density of Park Hill Estate v2 you'd think that the designers of the project were planning a multi-story, high density project that would blot out their views, create constant noise and ruin their quality of life. But is that the case for this planned project? To the exact contrary. I know a bit about housing and population density, noise, dirt and crime since I live in San Francisco where the population density is 17462 people per square mile. In stark contrast to what exists here the Park Highlands area is bucolic countryside, even with the addition of 16 more homes. Each project the Nelsons' do is individually designed and not a repeat of a previous project, and if certain individuals don't believe that I suggest they look at the Nelson portfolio of prior projects. This is another fact that the residents seem to willfully disregard and gloss over, repeating the same mantra that Park Hill Estates v2 will be a bland PUD or a row of boxes. It will not be.

Taken altogether what this all means is that the objections of the current residents, while originally all legitimate concerns, have veered off into wild exaggerations. All of these legitimate concerns have been squarely addressed, at the price of much time, labor and expense, in the MND. In the final analysis the adjoining property owners come off as people dealing in continual bad faith. It is obvious to me and to any perceptive fair minded individual that they have come to view this land as their "park" or "open space" and they are loath to give this perk up, a perk which they have enjoyed for years at my father's expense. They have had this unanticipated bonus all these years but now have come to see it as an entitlement, when it is in fact it is not an entitlement. Their "open space" is in fact privately owned property zoned for the type of development that is currently being proposed, and conforms to the Long Range Plan for Eastern Goleta Valley. However, the adjoining property owners could care less about long range plans. They want their open space, period.

The planning staff very clearly recommends approval after extensive project review on their part and that Board of Architectural Review review will occur for everything done on the site.

In closing, my father Lou Zeluck did not invest in this land so that it would become perpetual park land for adjoining property owners. In his foresight he saw back in 1968 that this land would some day be part of a in-built Eastern Goleta Valley. To further delay this project with numerous continuances is to run contrary to the objectives of the Eastern Goleta Valley Plan which my father anticipated by some 16 years and to County's findings and recommendations as delineated in the MND.

Respectfully yours,

Steven Zeluck
part-owner
4700 Via Los Santos, Goleta

Petition

To: Santa Barbara County

March 2011

We, the undersigned residents and homeowners in San Antonio Creek and Park Highlands, respectfully request that Santa Barbara County require that the Park Hill Estates Subdivision Plan that was approved by Santa Barbara County in 2007 be followed. The County, the applicant and the homeowners in San Antonio Creek and Park Highlands spent a significant amount of time negotiating and developing the 2007 plan and we believe that the 2007 Plan is compatible with the surrounding environment. We do not support the 2010 Plan that is currently being considered, and we ask the appropriate officials of Santa Barbara County to reject the currently proposed plan, or any other modification of the 2007 plan that calls for housing density exceeding that set out in the 2007 plan.

Name	Signature	Address
JOHN KING	<i>John King</i>	1187 San Antonio Creek
GERALDINE Kink	<i>Geraldine Kink</i>	" " "
JAMES R. BARNES	<i>James R. Barnes</i>	1265 San Antonio Cr. Rd. SB 931
Judith S BARNES	<i>Judith S Barnes</i>	" " " " "
HERMAN PFAUTER	<i>Herman Pfauter</i>	1275 San Antonio Creek Road 9311
SANFORD BRIER	<i>Sanford Brier</i>	4631 - VIA GENNITA
BEVERLEY BRIER	<i>Beverley Brier</i>	4631 - VIA GENNITA
Michele DRUM	<i>Michele Drum</i>	4884 VIA LOS SANTOS - SB 931
JOE DRUM	<i>Joe Drum</i>	" "
JEFF CLARK	<i>Jeff Clark</i>	4800 " "
Paule CLARK	<i>Paule Clark</i>	4900 " "
DAVID S MIZES	<i>David S Mizes</i>	4885 Via Los Santos
SUSAN HEBERT	<i>Susan Hebert</i>	923 Via Los Padres 93111
CHARA De HOGG	<i>Chara De Hogg</i>	100 Via Los Padres
ISABRY MAST	<i>Isabry Mast</i>	4920 Via Los Santos
Susi Lamoutte	<i>Susi Lamoutte</i>	4160 Pennell Rd.
Alice Mac Donald	<i>Alice Mac Donald</i>	1023 San Antonio Creek Rd
LATH E. Hollister	<i>Lath E. Hollister</i>	4592 Via Clarice
JAMES BENZIAN	<i>James Benzian</i>	1515 SAN ANTONIO CREEK
Felicia Capelle	<i>Felicia Capelle</i>	1260 San Antonio Creek
GENE CAPELLE	<i>Gene Capelle</i>	1260 San Antonio Creek Road
Julaine D. Schmidt	<i>Julaine D. Schmidt</i>	910 San Antonio Creek Rd
Craig Schmidt	<i>Craig Schmidt</i>	910 San Antonio Creek Rd
JUPANA DA RE	<i>Jupana Da Re</i>	4603 VIA GENNITA
Mark DaRe	<i>Mark DaRe</i>	4603 Via Gennita SB 93111

orig of County

Copy

Petition

To: Santa Barbara County

March 2011

We, the undersigned residents and homeowners in San Antonio Creek and Park Highlands, respectfully request that Santa Barbara County require that the Park Hill Estates Subdivision Plan that was approved by Santa Barbara County in 2007 be followed. The County, the applicant and the homeowners in San Antonio Creek and Park Highlands spent a significant amount of time negotiating and developing the 2007 plan and we believe that the 2007 Plan is compatible with the surrounding environment. We do not support the 2010 Plan that is currently being considered, and we ask the appropriate officials of Santa Barbara County to reject the currently proposed plan, or any other modification of the 2007 plan that calls for housing density exceeding that set out in the 2007 plan.

Name	Signature	Address
John Lamotte	<i>John Lamotte</i>	4660 PENNELL
Regina Magid	<i>Regina Magid</i>	1145 San Antonio Creek Rd.
Javier Castro	<i>Javier Castro</i>	4697 La Espada Dr
Nancy S. Castro	<i>Nancy S. Castro</i>	4697 LA ESPADA DR
Karen Macdonald	<i>Karen Macdonald</i>	4531 Via Cluise
Mary Vickers	<i>Mary Vickers</i>	4680 Pennell Rd.
Michael Casey	<i>Michael Casey</i>	4694 La Espada Dr
Leann MacColey	<i>Leann MacColey</i>	7517 Via Claude FN Cowley
DAVID BROWN	DAVID BROWN	1075 SAN ANT CREEK
CAROLYN BROWN	<i>Carolyn Brown</i>	1075 SAN ANTONIO CR
SCOTT BROWN	<i>Scott Brown</i>	1075 SAN ANTONIO CR
Marilyn Hansen	<i>Marilyn Hansen</i>	4626 VIA ORQUIDA, S.B
KENDZA DUNNAN	<i>Kendza Dunnan</i>	41091 LA ESPADA DR
CHRIS O'CONNOR	<i>Chris O'Connor</i>	4691 LA ESPADA DR, SB
Bonnie Dickinson	<i>Bonnie Dickinson</i>	4575 Via Maria S.B. CA
Jack Dickinson	<i>Jack Dickinson</i>	4575 Via Maria SB CA
William McNamee	<i>William McNamee</i>	1008 San Antonio Creek Rd.
Nancy Sheldon	<i>Nancy Sheldon</i>	1014 Via Los Padres SB CA 93111
Michael Sheldon	<i>Michael Sheldon</i>	1014 Via LOS Padres SB CA 93111
Michael Crandall	<i>Michael Crandall</i>	4681 La Espada Dr, 93111
Roberta Nielsen	<i>Roberta Nielsen</i>	4625 Via Orquida 93111
John Nielsen	<i>John Nielsen</i>	4625 Via Orquida 93111
PETER BIRK	<i>Peter Birk</i>	1039 VIA LOS PADRES 93111
Beaumont M. Burt	<i>Beaumont M. Burt</i>	1047 VIA LOS PADRES 93111
DIANA MORIN	<i>Diana Morin</i>	4520 VIA CLAUCE 93111
STILLMAN CHASE	<i>Stillman Chase</i>	1077 San Antonio Creek Rd.
CARLA B REEVES	<i>Carla B Reeves</i>	1006 Via Los Padres 93111
<i>L. Stands</i>	<i>L. Stands</i>	951 Via Los Padres SB 93111
Jane Johnston	<i>Jane A. Johnston</i>	4643 Via Orquida, SB 93111
DEAN JOHNSTON	<i>Dean Johnston</i>	4643 Via Orquida, SB-93111
Jeff Sufro	<i>Jeff Sufro</i>	4600 Via Sheldon SB 93111

Petition

To: Santa Barbara County

March 2011

We, the undersigned residents and homeowners in San Antonio Creek and Park Highlands, respectfully request that Santa Barbara County require that the Park Hill Estates Subdivision Plan that was approved by Santa Barbara County in 2007 be followed. The County, the applicant and the homeowners in San Antonio Creek and Park Highlands spent a significant amount of time negotiating and developing the 2007 plan and we believe that the 2007 Plan is compatible with the surrounding environment. We do not support the 2010 Plan that is currently being considered, and we ask the appropriate officials of Santa Barbara County to reject the currently proposed plan, or any other modification of the 2007 plan that calls for housing density exceeding that set out in the 2007 plan.

Name	Signature	Address
Nancy HARVEY	Nancy Harvey	950 Via Los Padres
JEAN MARVIN	Jean Marvin	962 Via Los Padres
Jim Harvey	James L. Harvey	950 Via Los Padres
DICK FAWCETT	Dick Fawcett	1051 VIA LOS PADRES
Walter E. Moore	Walter E. Moore	1045 Via Los Padres
Kris Buck	Kris Buck	1047 Via Los Padres
Anne Compagnoni	Anne Compagnoni	4833 Via Los Santos
Maxine Rajata	Maxine C. Rajata	1034 Via Los Padres
NAN CARTER	Nan Carter	957 Via Los Padres
Shirley G. Diamond	Shirley G. Diamond	972 Via Los Padres
Jo Ellen Watson	Jo Ellen Watson	1054 Via Los Padres
Richard Miller	Richard Miller	980 Paseo Los Santos
Richard Lira	Richard Lira	377 Via Los Padres
Robert W. Olson	Robert W. Olson	979 Paseo Los Santos
David Ramthaler	David Ramthaler	960 Via Los Padres
Brently Mester	Richard Mester	1058 Via Los Padres
James Sande	James L. Sande	951 Via Los Padres
Ammon Thompson	Ammon Thompson	1038 Via Los Padres
Walter Keyser	Walter Keyser	1038 Via Los Padres
Tom Watson	Tom Watson	1054 Via Los Padres
Tharanga Mohottige	Tharanga Mohottige	924 Via Los Padres
HOWARD BABUS	Howard Babus	4600 VIA CLARICE
Ranley Thurston	Ranley Thurston	930 San Antonio Creek rd
Nick Luckhurst	Nick Luckhurst	930 San Antonio Creek rd

D. P. ...

Petition

To: Santa Barbara County

March 2011

We, the undersigned residents and homeowners in San Antonio Creek and Park Highlands, respectfully request that Santa Barbara County require that the Park Hill Estates Subdivision Plan that was approved by Santa Barbara County in 2007 be followed. The County, the applicant and the homeowners in San Antonio Creek and Park Highlands spent a significant amount of time negotiating and developing the 2007 plan and we believe that the 2007 Plan is compatible with the surrounding environment. We do not support the 2010 Plan that is currently being considered, and we ask the appropriate officials of Santa Barbara County to reject the currently proposed plan, or any other modification of the 2007 plan that calls for housing density exceeding that set out in the 2007 plan.

Name	Signature	Address
ROBERT LOGAN	R Logan	1030 Via Los Padres
Mary Ellen Logan Mary E Logan	Mary E Logan Mary E Logan	1030 Via Los Padres
David Mejid	David Mejid	1145 San Antonio Creek Rd
SHARON CRANDALL	Sharon Crandall	4681 LA ESPADA DR
JAN CRANDALL	JAN CRANDALL	4681 LA ESPADA DR
Darla Orlich	Darla Orlich	4651 Via Orquidea
Brad Orlich	Brad Orlich	4651 Via Orquidea
Theresa Lucia	Theresa Lucia	1054 San Antonio Creek Rd
Tim Hesson	Tim Hesson	1054 San Antonio Creek Rd
TAN NOVAK	Tan Novak	4613 VIA RUBI
Shirley Novak	Shirley Novak	4613 Via Rubi
David Mark	David Mark	4614 Via Rubi
JEROME S. EIBERT	Jerome S. Eibert	4650 PENNELL ROAD
HUONG EIBERT	Huong Eibert	4650 Pennell Rd
Margo Phelps	Margo Phelps	4625 Via Gennita
Linda M Stewart	Linda M Stewart	4608 Via Gennita
Allen H Stewart	Allen H Stewart	4608 Via Gennita
Diana Wackentin	Diana Wackentin	4602 Via Gennita
Chick Handley	Chick Handley	895 San Antonio Creek Rd
Patty Quan Handley	Patty Quan Handley	895 San Antonio Creek Rd
Robert Eiband	ROBERT EIBAND	920 SAN ANTONIO CREEK RD
MARY I. EIBAND	Mary I. Eiband	920 SAN ANTONIO CREEK RD
PAUL WILLIS	Paul Willis	940 San Antonio Creek Rd
Jude Willis	Jude Willis	940 San Antonio Creek Rd

Petition

To: Santa Barbara County

March 2011

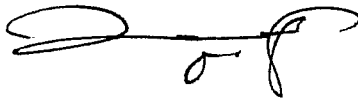
We, the undersigned residents and homeowners in San Antonio Creek and Park Highlands, respectfully request that Santa Barbara County require that the Park Hill Estates Subdivision Plan that was approved by Santa Barbara County in 2007 be followed. The County, the applicant and the homeowners in San Antonio Creek and Park Highlands spent a significant amount of time negotiating and developing the 2007 plan and we believe that the 2007 Plan is compatible with the surrounding environment. We do not support the 2010 Plan that is currently being considered, and we ask the appropriate officials of Santa Barbara County to reject the currently proposed plan, or any other modification of the 2007 plan that calls for housing density exceeding that set out in the 2007 plan.

Name

Signature

Address

Zeynep Ucbasaran



978 Via Los Padres
CA 93111

Petition

To: Santa Barbara County

March 2011

We, the undersigned residents and homeowners in San Antonio Creek and Park Highlands, respectfully request that Santa Barbara County require that the Park Hill Estates Subdivision Plan that was approved by Santa Barbara County in 2007 be followed. The County, the applicant and the homeowners in San Antonio Creek and Park Highlands spent a significant amount of time negotiating and developing the 2007 plan and we believe that the 2007 Plan is compatible with the surrounding environment. We do not support the 2010 Plan that is currently being considered, and we ask the appropriate officials of Santa Barbara County to reject the currently proposed plan, or any other modification of the 2007 plan that calls for housing density exceeding that set out in the 2007 plan.

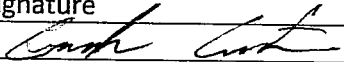
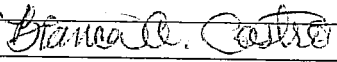
Name	Signature	Address
NATE CETTI		4671 LA ESPADA DR.
CLARE CETTI		4671 LA ESPADA DR.
Whitney Cetti		4671 LA ESPADA DR.
NANCY HARRINGTON		4675 LA ESPADA DR.
GEORGE GRGICH		4520 VIA MARIA, S.B.
SUSAN GRGICH		4520 Via Maria, SB.
Stephen Heinze		4659 La Espada Dr, SB.
Jill Anderson		4655 La Espada Dr. SB.
Katie Anderson		4655 La Espada Dr. SB.
Ida Rickborn		4661 La Espada Dr., SB.
Anthony Granatelli		4698 La Espada Dr., SB.
Sonia Granatelli		4698 La Espada Dr. SB.
Pat Carman		4680 La Espada Dr. SB.
Rikki Carman		4680 La Espada Dr. SB.
Lori Heinze		4659 LA ESPADA DR, SB.
Herbert Kroeme		1391 La Riata Lane, SB.
JAMES S. LEE		4660 LA ESPADA DR, SB.
ALICE B. LEE		4660 LA ESPADA DR. SB.
JIM CURTICE		1251 San Antonio Creek Rd SB.
Esther Curtice		1251 SAN ANTONIO CRK. RD. S.
RON MAUDSLEY		1395 LA RIATA LN SB.
Sherry Maudsley		1395 La Riata Ln SB.
Audrey von Bieberstein		4690 La Espada Dr., SB 9311.
RICHARD A. BLADES		1115 SAN ANTONIO CREEK RD., SB. 9311.
VICTORIA A BLADES		1115 SAN ANTONIO CREEK RD. SB 9311.
MARILYN J. CARMAN		4680 LA ESPADA DR. SB 9311.

Petition

To: Santa Barbara County

March 2011

We, the undersigned residents and homeowners in San Antonio Creek and Park Highlands, respectfully request that Santa Barbara County require that the Park Hill Estates Subdivision Plan that was approved by Santa Barbara County in 2007 be followed. The County, the applicant and the homeowners in San Antonio Creek and Park Highlands spent a significant amount of time negotiating and developing the 2007 plan and we believe that the 2007 Plan is compatible with the surrounding environment. We do not support the 2010 Plan that is currently being considered, and we ask the appropriate officials of Santa Barbara County to reject the currently proposed plan, or any other modification of the 2007 plan that calls for housing density exceeding that set out in the 2007 plan.

Name	Signature	Address
Carlos E. Castro		4697 LA ESPADA DRUE
		SANTA BARBARA, CA.
		93111
BIANCA A. CASTRO		4697 La Espada Dr.
		Santa Barbara, CA.
		93111

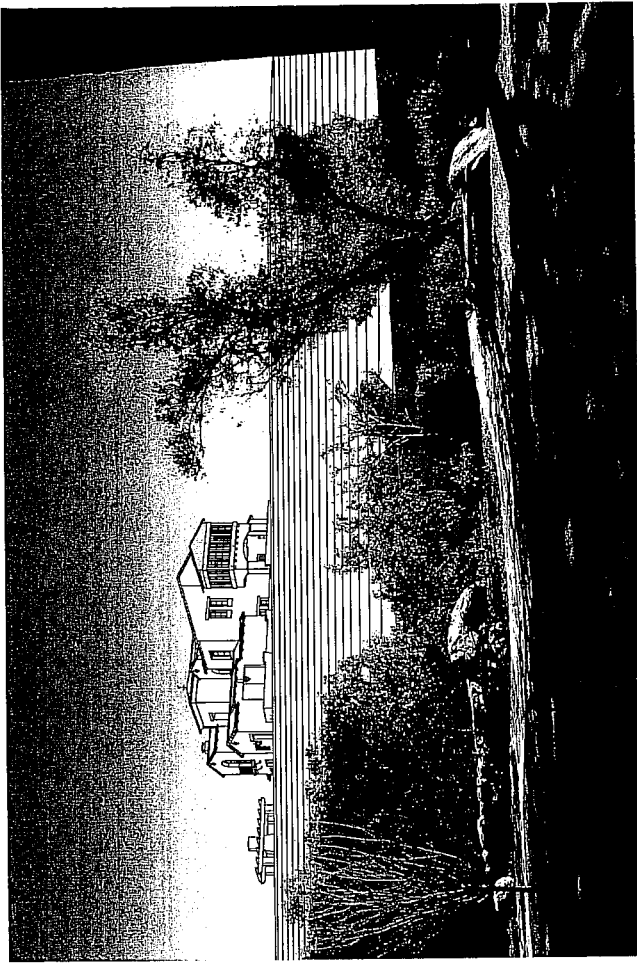
Petition

To: Santa Barbara County

March 2011

We, the undersigned residents and homeowners in San Antonio Creek and Park Highlands, respectfully request that Santa Barbara County require that the Park Hill Estates Subdivision Plan that was approved by Santa Barbara County in 2007 be followed. The County, the applicant and the homeowners in San Antonio Creek and Park Highlands spent a significant amount of time negotiating and developing the 2007 plan and we believe that the 2007 Plan is compatible with the surrounding environment. We do not support the 2010 Plan that is currently being considered, and we ask the appropriate officials of Santa Barbara County to reject the currently proposed plan, or any other modification of the 2007 plan that calls for housing density exceeding that set out in the 2007 plan.

Name	Signature	Address
JOHN LAMOUTTE		4660 PENNELL
Regina Magid		1145 San Antonio Creek Rd.
Xavier Castro		4697 La Espada Dr.
Nancy S. Castro		4697 LA ESPADA DR.
Karen Macdonald		4531 Via Clowie
Mary Vickers		4680 Pennell Rd.
Michael Casey		4694 La Espada Dr.
Francine Crowley		7517 Via Claude FN Crowley
	DAVID BROWN	1075 SAN ANT CREEK
CAROLYN BROWN		1075 SAN ANTONIO CR
SCOTT BROWN		1075 SAN ANTONIO CR
Marilyn Hansen		4686 VIA ORQUIDA, S.B
KENDRA DUNCAN		4691 LA ESPADA DR
CHRIS O'CONNOR		4691 LA ESPADA DR, SB
Bonnie Dickson		4575 Via Maria S.B CA
Jack Dickinson		4575 Via Maria S.B CA
William M. Namgoff		100B San Antonio Creek Rd.
Nancy Sheldon		1014 Via Los Padres SB CA 93111
Michael Sheldon		1014 Via LOS Padres SB CA 93111
Michael Crandall		4681 La Espada Dr, 93111
Roberta Nielsen		4625 Via Orquida 93111
John Nielsen		4625 Via Orquida 93111
PETER BURKE		1035 VIA LOS PADRES 93111
Beaumont M. Burke Jr		1047 VIA LOS PADRES 93111
DIANA MORIN		4520 VIA CLARICE 93111
STILLMAN CHASE		1077 San Antonio Creek Rd.
CARLA B REEVES		1006 Via Los Padres 93111
		951 Via Los Padres SB 93111
Jane A Johnston		4643 Via Orquida, SB 93111
DEAN JOHNSTON		4643 Via Orquida, SB-93111
Jeff Sifer		4625 Via Seladita SB 93111



VIEW 1 PROPOSED



STORYPOLE LINE
+340'-0"

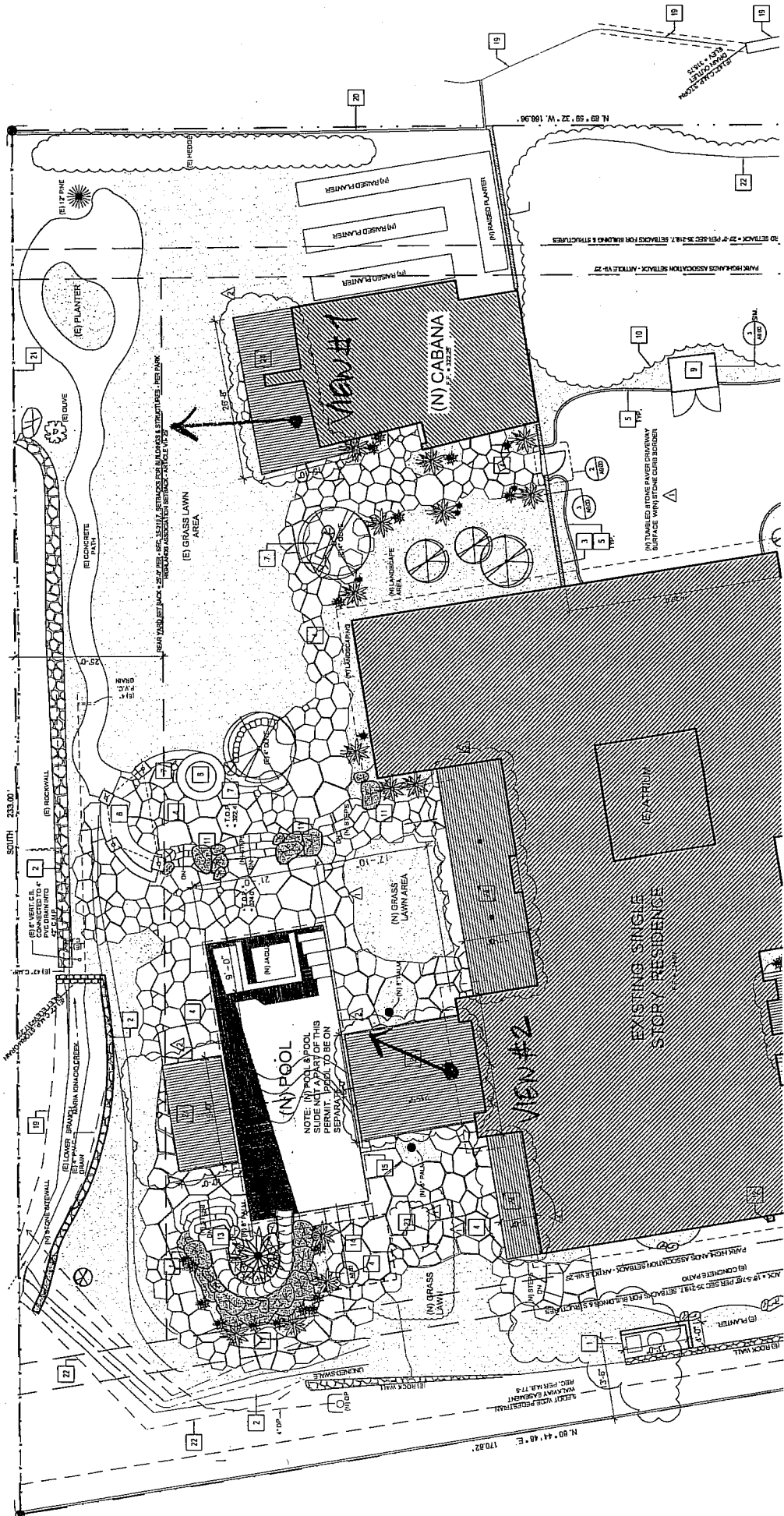
VIEW 1 EXISTING



VIEW 2 PROPOSED



VIEW 2 EXISTING



(N) POOL
 NOTE: POOL & POOL SLIDE ARE PART OF THIS PERMIT. POOL TO BE ON SEPARATE PERMIT.

EXISTING SINGLE STORY RESIDENCE

(N) CABANA

(E) GRASS LAWN AREA

(N) GRASS LAWN AREA

(N) GRASS LAWN AREA

SOUTH 233.82'

N 89° 44' 48" E 170.82'

KEEP VASED PLANTMENT WITHIN 7 FT. 6"

NO TIMBERED STONE PAVEMENT SURFACE WITH STONE CURB BORDER

PARKING AND ASSOCIATION SETBACK - 4 FT. E. W. 20'

NO TYPED STONE PAVEMENT SURFACE WITH STONE CURB BORDER

PARKING AND ASSOCIATION SETBACK - 4 FT. E. W. 20'

NO TYPED STONE PAVEMENT SURFACE WITH STONE CURB BORDER

PARKING AND ASSOCIATION SETBACK - 4 FT. E. W. 20'

NO TYPED STONE PAVEMENT SURFACE WITH STONE CURB BORDER

PARKING AND ASSOCIATION SETBACK - 4 FT. E. W. 20'

NO TYPED STONE PAVEMENT SURFACE WITH STONE CURB BORDER

PARKING AND ASSOCIATION SETBACK - 4 FT. E. W. 20'

NO TYPED STONE PAVEMENT SURFACE WITH STONE CURB BORDER

PARKING AND ASSOCIATION SETBACK - 4 FT. E. W. 20'

NO TYPED STONE PAVEMENT SURFACE WITH STONE CURB BORDER

PARKING AND ASSOCIATION SETBACK - 4 FT. E. W. 20'

NO TYPED STONE PAVEMENT SURFACE WITH STONE CURB BORDER

PARKING AND ASSOCIATION SETBACK - 4 FT. E. W. 20'

NO TYPED STONE PAVEMENT SURFACE WITH STONE CURB BORDER

PARKING AND ASSOCIATION SETBACK - 4 FT. E. W. 20'

NO TYPED STONE PAVEMENT SURFACE WITH STONE CURB BORDER

PARKING AND ASSOCIATION SETBACK - 4 FT. E. W. 20'

NO TYPED STONE PAVEMENT SURFACE WITH STONE CURB BORDER

PARKING AND ASSOCIATION SETBACK - 4 FT. E. W. 20'

NO TYPED STONE PAVEMENT SURFACE WITH STONE CURB BORDER

PARKING AND ASSOCIATION SETBACK - 4 FT. E. W. 20'

NO TYPED STONE PAVEMENT SURFACE WITH STONE CURB BORDER

PARKING AND ASSOCIATION SETBACK - 4 FT. E. W. 20'

NO TYPED STONE PAVEMENT SURFACE WITH STONE CURB BORDER

PARKING AND ASSOCIATION SETBACK - 4 FT. E. W. 20'

NO TYPED STONE PAVEMENT SURFACE WITH STONE CURB BORDER

To: Santa Barbara County Planning Commission
Subject: Proposed Park Hills Estates
From: Nancy and Michael Sheldon, 1014 Via Los Padres

For the three reasons presented below we respectfully request you deny the request of Mr. Nelson to develop 16 homes as currently laid out. The plan moves far too much earth and raises the building pad of a number of lots unnecessarily, adds too much density, and is not compatible with the neighborhood.

1) Grading and Drainage:

- Mr. Nelson is proposing to raise lot 10 (adjacent to our property) at least 8-10 feet (the MND refers to this as “slight”) and then put a 22 foot home on the property – this will create a castle overlooking our house, one whose ground floor and yard is 18 feet above our yard and stares into our kitchen, living room and kids rooms from the ground floor. They say they are doing this to address drainage concerns but there are better solutions to drainage - it is clear they are raising this and adjacents lot for better views above and beyond my home.
- The homes in our neighborhood are built utilizing the natural contours of the landscape, and utilizing the existing contours the house and its yard would begin only a few feet above our yard and the ground floor would be roughly 8-9 feet above us – far more appropriate and compatible with our neighborhood (where all homes are built into hills, down slopes, etc).

2) Density and Fire:

- We have four small children and when we evacuated during the Gap fire it was very scary and chaotic. We were backed up onto Via Los Santos and it took over 5 minutes to get onto Cathedral Oaks during a *voluntary* evacuation. We are very concerned about what will happen if it is mandatory *and* we have significantly more families to evacuate.
- La Romana Estates, mentioned in the MND as a comparable project, has 24 homes on 28 acres – by the same math Pak Hills should have 11-12 homes and much more open space – exactly what was agreed to in the 2007 plan.

3) Compatibility:

- This project does not fit with the feel and look of our community of custom homes on relatively large lots - they want larger homes on smaller lots with smaller set backs.
- The homes are going to be built with the same look and feel, creating a PUD type project.
- They are attempting to greatly reduce the contour of the natural environment and get rid of the rural feel of the neighborhood.

In Summary: The homes in this area are all built in the natural hills of the community. There are 50 foot setbacks, large lots, varied home styles and a natural rolling topography. Mr. Nelson’s plan has NONE of these elements. The grading on lot 10 and adjacent lots is completely unnecessary and results in a dramatic loss of privacy for us and our surrounding neighbors.

The process here has broken down – in 2007 we worked together with the developer and arrived at a plan we could all support. If you approve this plan you will be disregarding what makes this neighborhood special and will be greatly diminishing its essence.

Nancy and Michael Sheldon
1014 Via Los Padres

December 5, 2011

County of Santa Barbara
County Planning Commission

RE: Park Hills Estates – New development proposal

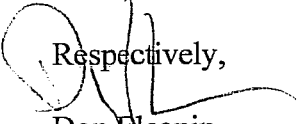
Dear Planning Commission,

Thank you for the opportunity to offer my views regarding this current proposal. I will let others argue the legal elements of this proposed development as well as the legal issues pertaining to what is not being considered with this proposal that was considered in the 2007 proposal. Development of the 2007 proposal ended in a fair compromise wherein the neighbors, developer and Planning Staff & Planning Committee worked diligently to find a development plan that was found acceptable to all. To this point the current proposal has not borne much fruit through the attempt by the neighbors to work with staff and the developer to create a project that works for anyone other than the developer.

I have found, while sitting through many meetings between the developer and the neighbors that this developer has a development model that is inflexible, does not come close to creating homes and/or lots that are compatible with our neighborhood, and whose only consideration is the profitability of his development. I, as well as many others, including two other very seasoned Realtors who live in the area, can and have provided detailed input to Mr. Nelson covering the many ways that the proposed homes are not close to being compatible to the homes in our neighborhood. We have also offered our opinions regarding the potential profitability associated with the currently approved plan. Additionally, we are very aware of another developer who is ready, willing and able to build based on the 2007 plan if provided the opportunity.

Although it is certainly the developer's right to attempt to obtain approval based on his inability to be able to fit his model into the previously approved 2007 plan, it is clearly not either Staff's or Planning Commission's job to consider profit when evaluating the merits of a plan. Simply said, we have an approved plan, the developer knew of this plan when he initiated his attempt to deviate from this plan, and he has no argument for deviating from the approved plan other than his wish to force this revised plan attempt onto the neighborhood simply in order to profit from doing so because the plan he is proposing has worked in other neighborhoods. The neighbors have clearly stated their lack of support for this new plan with no discernable response from the developer that shows any sensitivity to or interest in the concerns of the neighbors in whose neighborhood he has come. The end result, unless this project is rejected, will be a strongly negative impact upon all of us financially as well as to our community.

Respectively,



Don Elconin
1220 San Antonio Creek Rd.
Santa Barbara, CA 93111
805-452-1221

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

December 2, 2011

Santa Barbara County
Planning Commission
123 E. Anapamu Street
Santa Barbara, CA 93101

FILE COPY

RECEIVED

DEC 02 2011

S.B. COUNTY
PLANNING & DEVELOPMENT
HEARING SUPPORT

Re: Park Hill conditions of approval
Dec. 5, 2011 Agenda item 2

Dear Chairman Valencia and Commissioners,

This is a comment and request as to the Park Hill v.2 conditions of approval.

Condition 6- Grading

This condition discourages excess initial grading.

Comment:

It is the position of Flowers and Associates that the preliminary subdivision improvement plan complies with that condition as the grading indicated is done to accommodate drainage and in no case is elevating the existing ground to increase view potential for a lot. The bioswales and detention basin must operate correctly from the beginning and that is what the grading called for in the preliminary subdivision improvement plan allows. If the staff believes otherwise it should advise us accordingly.

Condition 23- Construction Hours

This provides for construction hours of 8 to 5

Comment:

We request this be revised from 7:30 to 4:30 to be more consistent to normal construction days.

Condition 40- Water Conservation

This condition requires common area landscape to have no more than 20% of the landscaping be turf.

Comment:

2

12-05-11

The landscape plan shows the bottom of the basin having a meadowgrass which we assume is not considered turf. If staff believes otherwise it should so advise.

Condition 41 Design Elements

Comment: These should be “considered” rather than mandated as they have aesthetic and other implication such as requiring solar panels for water heaters. (Staff accepted this change to conditions in the Tree Farm project).

Condition 42- Affordable Housing

Comment: The affordable unit is to be a rental, not a sale. The standard condition for a sale requires a lottery. We previously communicated with the County agencies and confirmed that rentals do not go through a lottery but are selected by the owner and verified with the County.

Based on this we have advised the neighbors of that process and that they could provide input on a prospective renter. This is an important item to have a sense of compatibility between the project and a tenant. We trust this was an oversight and would not apply to a rental but would apply to the sale of a unit unless advised of otherwise by the County.

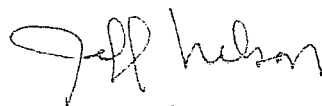
Part of our compromise plan with the neighbors was to have the affordable unit built after 10 market rate homes were built, not 8 as per the condition. This allows more time for the County to finish its review of in-lieu fees. The County Supervisors recently allowed a project to have its affordable to be built after 74% & 83% of the market rate units were built (we submitted that info to staff). The neighbors looked favorably on this proposed change and staff has not previously raised an issue with our request that the affordable be built after 10 market rate units.

Parks Fee

Condition- Parks letter of September 2011

Comment: This lists 18 homes rather than 16. Also this confirms that Claude Garciaceley said at both of the subdivision committee meeting and subsequently that the land use clearance that triggers this is the land use clearance for each house, lot by lot as they are built. This confirms that communication.

Thank you for your consideration.



Jeffrey C. Nelson

Cc: Alex Tuttle, P&D

November 28, 2011

A

To: Santa Barbara County Planning and Development

12-05-11

Subject: Draft Mitigated Negative Declaration for Park Hills Estates V.2

From: Danny Vickers, President of the San Antonio Creek Homeowners Association

Background:

FILE COPY

I am the president of the San Antonio Creek Homeowners Association and many of my responses are shared by our membership. I have already delivered petitions to you from over 250 neighbors in the San Antonio Creek and Park Highlands neighborhoods opposing the project described in the 2011 MND. Our neighborhood is not opposed to development. In 2007, we supported a plan approved by the County for the site calling for 12 single family residential lots. The 2011 Plan calls for more density with 16 single-family lots, smaller lot sizes and the permanent loss of native habitat. The increased density not only makes onsite grassland mitigation infeasible; but, it also increases traffic and fire safety concerns in our neighborhood. Our hope is that the County will not approve a larger and more environmentally damaging plan than it approved in 2007. Plus, in 2007, the County stated in the MND/Staff Report that the site is not physically suited for more than 12 single-family residential lots. The 2007 Plan stated that native bunchgrass restoration and a remnant foraging area for birds of prey were critical project components which have been eliminated in the 2011 Plan.

Permanent Loss of Biological Resources

The 2011 MND states that onsite mitigation of native grasslands is infeasible without providing support for this conclusion. In fact, the 2007 MND expressly showed that onsite mitigation is feasible. The 2007 MND allowed for onsite preservation of native grassland while allowing for substantial development of the property. Onsite mitigation is important for the community because it allows for undisturbed open space, foraging, nesting and roosting habitat for species that live throughout the neighborhood. This is the last large undeveloped tract in San Antonio Creek and it's important to the community that some of it be saved. The prior developer was committed to on site mitigation and it therefore worked economically. The community not only loses native grasslands and habitat; but, it also loses the species that rely on this habitat, including threatened and protected species. We don't think the addition of four residences is worth the permanent loss of these community resources.

Inadequacy of the Mitigated Negative Declaration.

The biology on the site

Given the differences between the 2007 Plan and the 2011 Plan, there needs to be a heightened level of environmental review through the use of an Environmental Impact Review. The 2011

RECEIVED
DEC 02 2011
S.B. COUNTY
PLANNING & DEVELOPMENT
HEARING SUPPORT

Plan permanently eliminates native grasslands and habitat. Before the County allows for this, it needs to thoroughly review (a) what is currently on the site, and (b) what the true impacts of destroying this habitat will be on the species that rely on this habitat. According to David Magney, environmental expert, the MND fails to study what's currently on the property. The MND also fails to address the applicable Goleta Community Plan policies and CEQA that mandates onsite mitigation.

Fire Safety – evacuation routes

Fire safety is probably the universal concern of all neighbors when evaluating the MND. The MND doesn't adequately address fire safety and fire protection. Many neighbors have already submitted written testimony that increased density will adversely affect neighborhood evacuation during a fire. Our neighborhood has had to evacuate many times in recent history and the MND incorrectly concludes that we have multiple routes out of the neighborhood. In all prior cases, the fire has come from the North so the reality is that all exits have to be in the southward direction. If a fire occurs after dark, there is only one secure exit from our neighborhood to the south down Via Los Santos. The Tucker's Grove exit cannot be relied on because unless all neighbors know that they can successfully ram their car into a substantial steel gate, this exit can easily be clogged by someone abandoning their car. In theory, the Tucker's Grove exit will open if a neighbor knows to ram his car into it. This is not a reliable exit during a time of extreme stress in our neighborhood. The MND also fails to consider the impact on fire safety when the remaining 47 buildable lots in the neighborhood are developed. The MND also fails to address the impact of having four churches in the neighborhood which could impact evacuations during a fire. There is no analysis of evacuation conditions under these various scenarios in the MND.

Fire Safety – response times

The MND states that the County applied the Fire Department standard response time of 5 minutes for evaluating Fire Protection impacts of the PHE project. Neighbors have testified that this response time is not always met which we believe is another reason that the County should not allow the density of homes proposed in the 2011 MND. In particular, in June of 2008, I witnessed that it took the fire department more than 20 minutes to respond to a fire that threatened the home of Chuck and Meg Jette on Pennell Road. There was no other obvious fire in the area at the time so I was surprised that it took the fire department more than 20 minutes to respond. Response time in this instance was a significant problem because if not for neighbors helping neighbors this fire could have burned several residences.

MND not comparing 2007 Plan to 2011 Plan

A lot of the issues and deficiencies in the MND could be addressed and resolved through an EIR. For example, an EIR would require that project alternatives be considered. This would allow the County and the community to understand the real differences between the environmental impacts of the 2007 Plan and the 2011 Plan. The MND does not provide a vehicle for this type of analysis. It is imperative that the County complete this type of analysis since the County has already approved a project on this Property and is now considering a similar—but more intensive use of the Property. CEQA was enacted to provide both the government and the public with the

opportunity to fully understand the impacts of development on the environment. With an EIR, the County needs to consider the 2011 Plan in light of the 2007 Plan. The 2011 Plan basically ignores the fact that the County approved a plan in 2007.

Impact on Public Views

The 2011 MND does not adequately address the impact on public views of having more homes and taller homes by four feet in most cases. In 2007, the neighborhood, the County and the developer spent a significant amount of time evaluating public views. In 2007, the neighborhood supported the plan because of the height restrictions and number of homes being proposed. The 2011 Plan with more and taller homes has not provided enough evidence that the public views will be adequately protected. Many neighbors use Pennell Road to walk their dogs and kids to avoid the traffic danger along San Antonio Creek Road. The MND should include an assessment of the environmental impact of the loss of defacto public views along Pennell Road.

Impact on Traffic Safety

For years, neighbors have been concerned about traffic conditions in our neighborhood. It is dangerous to walk along many segments of San Antonio Creek Road and Via Los Santos due to the speed of traffic, the terrain, the blind curves and the width of the streets. On several occasions our neighbors have asked the County, without success, to look for ways to improve traffic safety in our neighborhood and we believe that traffic safety is not adequately addressed in this MND. Adding more density to our neighborhood will only add to our fears. The County continues to support a 40 MPH speed limit due to their design guidelines while the neighborhood believes that this is too fast considering the lack of sidewalks, the blind curves and the width of the streets. A related factor is that the MND fails to consider that there are 47 buildable lots in our neighborhood which will someday be developed. Our interpretation of the County's Policy Manual is that there are enough significant reasons to justify further review.

I have lived in the San Antonio Creek neighborhood for nine years and I appreciate the opportunity to comment on the adequacy of the 2011 MND at assessing and mitigating the environmental impact of the proposed plan for Park Hills Estates (PHE). I have attended at least 30 different meetings of neighbors from 2006 to date on the PHE project. On behalf of the neighborhood, I appreciate your consideration of our comments and concerns.

NELSON LAW FIRM
735 STATE STREET
SUITE 212
SANTA BARBARA, CALIFORNIA 93101

JEFFREY C. NELSON

Phone (805) 845-7710
Jeff@jeffnelsonlaw.com

December 17, 2010

Glenn Russell
Director
Planning and Development
123 E Anapamu St
Santa Barbara Ca.

FILE COPY

J
12-05-11

Re: Park Hill Estates v.2 bonus density request

Dear Glenn,

This is a renewed request for specific incentives or concessions for a State Bonus Density infill housing project. We previously made a request for concessions in our letter that is attached as exhibit A and we have not received a definitive response on that. On December 15, Anne Almy and Alex Tuttle called me to state that the County was inclined to change from a Negative Declaration to an EIR which will derail the project and the bonus density request and might be considered action by a local government to refuse the request under which the applicant has a right to bring suit and is entitled to an award of attorneys fees and cost of suit if the court finds the local government wrongfully refused a request (govt. code section 65915(d)(3)).

The issue is the presence of nine or 10 small isolated purple needle grass (*Nassella Pulchra*) which exist on the property and have increased in acreage since this project was first approved in 2007. The property has not been developed in that time because of the housing recession and is going through re-permitting which is a common occurrence in California now.

We believe it is unquestioned that there will be more purple needle grass plants that will be maintained in a sustainable fashion after the project than exists now. The disparate patches of grass qualify for potential mitigation under the County standards so long as the density of those native but common purple needle grass plants exceeds 10% of the vegetation of a stand.

The exact acreage of purple needle grass is subject to some dispute as two small stands are connected to other stands now though most of the intervening property between the stands is either off this property (stand 9), or mostly non-native plants (stand 6).

RECEIVED

DEC 22 2011

S.B. COUNTY
PLANNING & DEVELOPMENT
HEARING SUPPORT

CEQA Threshold

We do not believe our proposal for this property will create a significant impact on grasslands. The County CEQA thresholds of significant work in concert with the State CEQA guidelines to protect fragile, rare, and special environmental resources. CEQA appendix G speaks of a project normally having a significant effect on the environment if it will “substantially affect a rare or endangered species of animal, plant, or the habitat of the species, interfere substantially with the movement of any resident or migratory fish or wildlife species; and substantially diminish habitat for fish, wildlife or plants”. None of those impacts occur from this project.

The local guidelines go into the need to assess a variety of issues as to whether the habitat is designated as an ESH area on County planning documents or designated as “critical habitat” for listed species by Federal or State agencies . The answer to those two questions for this property is *no*.

Is the habitat pristine or disturbed (disturbed). Is the habitat resource large enough to be viable (No).

The guidelines list six manners in which, if the disturbance to the habitat causes a substantial impact, then it can be considered significant if there is substantial evidence to support that (emphasis on *substantial* in the original).

In describing less than significant impacts, the guidelines state “there are many areas in the County where there is little or no importance given to a habitat and it is presumed that disruption would not create a significant impact. Examples of areas where impacts to habitat are presumed to be insignificant include: (a) acreages of non native grassland if wildlife values are low”. This property is predominantly non native grass, mowed closely for fire control, with demonstrated wildlife values.

The guidelines state that “removal or severe disturbance to a patch or patches of native grasses less than ¼ acre which is clearly isolated and is not a part of a significant native grassland or an integral component of a larger ecosystem, is usually considered insignificant.”

In no fashion do the CEQA guidelines support the contention that every small patch of isolated native grassland that is in excess of ¼ acre is biologically significant. It merely creates a bright line test that patches below ¼ acre are not significant. In fact the assessment then goes back to general methodology for determining significance if it is above ¼ acre. The CEQA guidelines state the assumption that “few stands of native grasslands remain in the state and the habitat is considered rare both in the state and within the county (CEQA guidelines page 41). In fact purple needle grass is not considered rare by the State so while that may be applicable for other less common native

grasses it is not the case with purple needle grass which still exists in abundance in California.

Goleta Community Plan

The Goleta Community Plan created an urban boundary line within which it anticipated there would be future development including housing. Many recent State “smart growth” initiatives and policies look to urban infill housing where homes are created near jobs as the primary planning tool to reduce carbon emissions caused by long term commuting.

The County adopted overriding considerations in the Community Plan where some environmental impacts were considered, on balance, to be allowed to occur to allow infill housing.

Attached are copies of Goleta Community Plan Biology sections.

The project complies with BIO-GV-21 by using locally occurring native plants to be re-vegetated in landscaping in parks and open space.

Policy BIO-GV-22 does not apply because purple needle grass does not appear on the *California Native Plant Societies Inventory of Endangered Vascular Plants of California*. While this list includes 2238 plants, neither *Nassella Pulchra* nor purple needlegrass are included on this list. (<http://www.snsa.org/conservation/conservation/conservation.html>)

It is questionable whether BIO-GV-22.1 applies because there is no substantial evidence that purple needle grass constitutes a “sensitive or important habitats and areas”. If it is not listed as a rare plant and can be grown as a landscape grass how can the County say it is sensitive or important? See list of “Rare Plants of Santa Barbara County”. This list includes approximately 450 plants, but not purple needle grass.

BIO-GV-22.2 states that a minimum replacement of 2:1 shall be required for “significant native habitat areas eliminated”. We do not believe the record contains substantial evidence that isolated stands of purple needle grass constitute “significant native habitat areas”.

BIO-GV-22.3 states the County should develop a fee program to mitigate impacts with projects with the potential to significantly impact any of the regional ecological systems. The County has traditionally accepted in lieu fees for biological restoration including payments of up to \$3,000 per parcel to fund other agencies or non-profits. This demonstrates the County is accepting of other forms of mitigation of potential impacts.

According to studies, the main factor on the long term survival of purple needle grass is watering¹. Without systematic watering a drought puts at risk the survival of purple needle grass. Clearly the resource will be enhanced by consolidating it and watering and having the home owners association responsible for maintaining it.

The County is prohibited from applying “any development standard that will have the effect of precluding the construction of a development meeting the (affordability requirements) at the densities or with the concessions or incentives permitted by section 65915.

“Development Standards” are broadly defined to include any zoning ordinance, general plan, specific plan, or other local law. The County is limited in applying rules or policies if those land use regulations would preclude the development of the project and utilization of the bonus density and other incentives.

The County has historically employed unreasonable time consuming process delays to effectively thwart infill housing projects, including those that have affordable housing. We will augment the administrative record as is necessary to demonstrate this.

Delaying process is taking a planning action which has the purpose and intent to thwart or prevent a bonus density project from being realized.

According to one analyst, an incentive that the applicant is entitled to seek is “development by right” which if that was the incentive we invoked would overcome the County’s current obstacles.²

Importantly the purple needle grass is not rare, threatened or endangered. It is a common landscaping grass used in people’s yards and indeed is being proposed as a meadow grass in another project being processed (Tree Farm Infill Housing).

We are seeking in Park Hill v.2 to create a project that is attractive to homeowners so we are avoiding consenting to fenced inaccessible biological mitigation projects in people’s back yards and are proposing a meadow that is usable seasonally for passive recreation in the bottom of the retention basin, lot 19. The Landscape plan calls for the bottom of the basin to be planted with alkali rye (*Leymus Tricoides*) a native perennial grass. So that should be credited toward native grasses replacing native grasses.

The County through its Parks Department is assessing each new homeowner parks fees because there is a shortage of parkland available for residents in eastern Goleta. Creating

¹ Coexistence and interference between a native perennial grass and non-native annual grasses in California (Oecologia (1999 Hamilton Holzappel and Mahall))

² A Guide to California Government Code section 65915: Density Bonuses and Incentives for Affordable Housing, California Real Property Journal Volume 23, No. 2, M. Menzer and S. Attestatova.

passive parkland with these new residents is consistent with that County goal of creating additional park areas be they public or private.

The County has a record of delaying or thwarting infill housing including infill housing that includes low and moderate housing. This project includes a very low income rental per the bonus density provisions. The County staff person (A. Almy) said these fragmented grasses are potentially significant because there used to be many more of them in the area and these represent a small remnant of a prior larger stand. That is imposing a burden on this property for actions on other property in past times that is legally unwarranted.

The property owners could disk the property and remove all these grasses if they determined them to be an unreasonable and unnecessary burden. The County requires the property owner to cut these grasses low for fire protection in which state they serve no different purpose biologically than any other non-native grasses.

If the County believes that there is from our bonus density incentive request a "specific adverse impact" on public health and safety, the physical environment or historic property for which there is "no feasible method to satisfactorily mitigate or avoid the specific adverse impact", it should provide such findings so we can assess them.

Historically a wide range of options have existed to mitigate potentially significant impacts on common plantable landscape grasses that fit in the category of native grasses.

The County previously deemed these grasses isolated and fragmented. They are no less isolated or fragmented now though the edges of some stands have widened.

Conclusion

This property was approved for development in 2007 with a purple needle grass re-vegetation plan. Many jurisdictions are addressing new permitting for undeveloped previously approved projects because of the change in the economy. The County staff is using a strained interpretation to say development of the site could have a significant impact on the isolated pockets of purple needle grass on the site.

State law provisions have been adopted to assist infill housing projects that include affordable housing to overcome local planning obstacles. We have invoked an incentive to avoid onsite restoration that would impede utility and function of the project anymore than the 1.6 acres of denser purple needle grass we are proposing. There is no question that post project there will be more purple needle grass plants with a more sustainable environment than before.

The 2005 study showed 1.36 acres of grasslands above ¼ acre. The 2010 study showed 2.46 acres but about .2 in an area separated from the balance of stand 9 that is on the

property. Removing that would make the onsite total 2.26 acres. That is almost exactly the size of lot 19 (2.2 acres) that will have restoration on it with approximately .6 of that in the bottom of the bowl that would use other native but managed grass for periodic recreational use. That shows that the onsite acreage of mitigation nearly balances as is without even considering an offsite option. This is clearly a resolvable issue and not one meriting project delays.

If the County denies this incentive we are entitled to go to court and obtain relief and attorneys fees. Unnecessary process delays are indeed local governmental actions that have the effect of precluding the construction of a development of a bonus density project at the densities and with the concessions or incentives permitted by government code 65915.³

We request a meeting in the first week after January 1, when we understand Alex Tuttle and Anne Almy will return to the office.

Very truly yours,



Jeffrey C. Nelson

CC: Alex Tuttle
Anne Almy

Attachments:

1. Prior Letters on this issue
2. County CEQA Guidelines-Grasslands
3. County General Plan policies- Bio
4. Rare plants of Santa Barbara County- List (relevant part of alphabetical list)

³ A County Staff member asked us in a meeting what the situation was on an alleged back up offer by another party for this property. A neighbor urged the County staff to take actions to thwart our application and facilitate that back up offer. Staff inquired of us on this back up offer though it is not relevant to processing. In fact there is no back up offer per the owner's real estate agent. Throwing the project processing off track now, as proposed by staff, could be considered to be in furtherance of this strategy suggested by one neighbor.

David Magney Environmental Consulting

P.O. Box 1346, Ojai, California 93024-1346 * E-mail: david@magney.org
805/646-6045 Voice * 805/646-6975 FAX
www.magney.org

1 December 2011

Alex Tuttle
Planner
Development Review Division
Santa Barbara County Planning & Development
105 E Anapamu Street
Santa Barbara, CA 93101

FILE COPY

2

12 05-11

Subject: Park Hill Estates Proposed Final MND v.2 (10TRM-00000-00001)

Dear Mr. Tuttle:

David Magney Environmental Consulting (DMEC) was contracted by the San Antonio Creek and Park Highlands Homeowners Associations to review and provide comments on the Proposed Final Mitigated Negative Declaration (MND), focusing on biological resources. This letter provides general and specific comments on the MND and supporting documents. DMEC previously provided detailed comments on the draft MND dated 17 June 2011.

The Park Hill Estates project site is approximately 14.7 acres, located on a gently sloping terrace containing natural vegetation in the Goleta Valley. The site has never been developed, although it is basically surrounded by residential development. The project applicant is proposing to build 16 single-family homes and related facilities on 16 new lots.

Since the assessment of impacts to biological resources in the MND is based for the most part on work conducted by Mark de la Garza of Watershed Environmental, a review of some of Watershed Environmental's work on the Park Hill Estates project is provided prior to comments on the MND itself. VSJ Biological's 1999 report on biological resources of the project site was available for review. The County needs to provide all reports associated with the proposed project that are used to conduct the impact assessment and make conclusions.

Park Hill Vegetation Survey by Watershed Environmental

Watershed Environmental first conducted botanical surveys of the project site in March 1998, with the results of that work summarized in the March 1999 report, but was not available as part of the CEQA documentation, and has not been provided even after several specific requests to County staff. That report was the basis for the assessment and report to the Planning Commission in 2007. Since then, Watershed Environmental conducted a supplemental survey of the vegetation of the project site in August 2010, dated 25 October 2010¹. Watershed Environmental's 2010 report includes: introduction, survey methods, survey results, conclusions, and references sections.

The introduction section states that the report, "describes the existing botanical resources located at 4700 Via Los Santos Road (APN: 59-290-041) where residential development is proposed. Watershed

RECEIVED

¹ Watershed Environmental, Inc. 2010. Vegetation Survey: Park Hill Estates, 4700 Via Los Santos Road, Santa Barbara, California. (25 October 2010.) Orcutt, CA. Prepared for Jeff Nelson, The Nelson Law Firm, Santa Barbara, CA.

DEC 02 2011

Environmental performed a botanical inventory/native grassland survey of this property in 1999 and performed a follow up survey in 2005. We also prepared a native grassland mitigation plan for this property in 2006². DMEC finds the 2010 report wholly inadequate in describing the existing botanical resources of the project site. In addition, the report provides no additional information on wildlife use of the site.

Section 2.0, Survey Methods, on page 1, states, "...biologist Mark de la Garza and mapping analyst Melodee Hickman performed field surveys of the project site on August 11, 18, and 24, 2010. ...Field notes were used to record direct observations of vegetation types and botanical and wildlife resources". Table 3, Vegetation Observed, starting on page 6, includes a list of vascular plants, including each plant's scientific name, common name, and status as native or introduced. This list has numerous errors, including spelling errors, and lack of use of currently accepted botanical nomenclature. Examples are provided below:

Watershed Environmental's use

Ambrosia psilostachya
Baccharis pilularis var. *consanguinea*
Bromus madritensis rubens
Calandrinia ciliata
Ice plant (for *Carpobrotus edulis*)
Crassula comnate
Dichelostemma capitatum
Eremocarpus setigerus
Eucalyptus globules
Gnaphalium californicum
Gnaphalium canescens ssp. *microcephalum*
Hemizonia fasciculata
Hordeum brachyantherum
Hordeum murinum
Leymus trutuciudes
Polygonium sp.
Pyracantha sp.
Robinia pseudoacia
Thysanocarpus laciniatus

Correct Use

Ambrosia psilostachya var. *californica*
Baccharis pilularis ssp. *consanguinea*
Bromus madritensis ssp. *rubens*
Calandrinia ciliata
Hottentot Fig
Crassula comnata
Dichelostemma capitatum ssp. *capitatum*
Eremocarpus setigerus
Eucalyptus globules var. *globules*
Pseudognaphalium californicum
Pseudognaphalium microcephalum
Dienandra fasciculata
Hordeum brachyantherum ssp. *brachyantherum*²
Hordeum murinum ssp. *glaucum* or *leporinum* or *murinum*
Elymus triticoides ssp. *triticoides*
Polygonum needs to be identified, and spelled correctly.
Pyracantha needs to be identified, and spelled correctly.
Robinia pseudoacacia
Thysanocarpus laciniatus var. *laciniatus*

These numerous errors put into question the accuracy and completeness of the entire list and other aspects of the report.

Page 6, 3.1.2, Vegetation, states that there are "89 species of plants (Table 3)"; however, Table 3 lists only 86 taxa. What was left off the list? It also says that 62 percent of the species are nonnative and 38 percent of them are native, which appears to correspond to there being 89 taxa, but not knowing which taxa are present but not reported makes it impossible to verify the accuracy of any statistical conclusions.

The list also states that *Calandrinia ciliata* is not native when in fact it is a native annual species, a regular component of annual grasslands. Watershed Environmental's calculations of native versus nonnative

² Two subspecies of *Hordeum brachyantherum* are known to occur in the region, ssp. *brachyantherum* and ssp. *californicum*. Which subspecies is present? Convention on the use of scientific names says that if the subspecies/variety name is the same as that for the species, then it can be left off; however, when other subspecies/varieties occur onsite or nearby, it is wise, and important, to include the full name to eliminate any question about which taxon is indicated.

species are in error, in part because of errors in such as identified for the native *Calandrinia*. If there are only the 86 taxa present onsite, as evidenced by those taxa listed in Table 3, then the percentage of native species increases to 40 percent. The likelihood is that the flora of the project site contains many more species than observed and reported and that percentage of native species is also higher than reported.

Watershed Environmental's claim on Page 1 that it followed California Native Plant Society (CNPS), U.S. Fish and Wildlife Service (USFWS), and California Department of Fish and Game (CDFG) survey protocols and guidelines is not evidenced by what is reported. For example, de la Garza states that he conducted field surveys during March 1998, and 11, 18, and 24 August 2010. Survey protocols state that multiple surveys should be performed during seasons when plants are identifiable. In the Santa Barbara region, plants of various species can be found growing nearly any time of the year; however, most of them are only identifiable during one season, or only a portion of a season. De la Garza failed to conduct any surveys in the middle and late spring, early or late summer, in the fall, or in the winter. The protocols intend that the surveys occur in multiple seasons during the same year, and that if severe climate conditions occur in one season or year, that the surveys should be conducted again the following year. Annual species are especially sensitive to rainfall and temperature patterns/conditions, dependent on minimum climatic conditions suitable for completing their life cycle before they will germinate. Watershed Environmental did NOT follow these survey protocols. To claim that their surveys and reports accurately characterize baseline conditions of biological resources onsite is highly inaccurate and misleading. However, the botanical inventory is silent on nonvascular plants, including bryophytes (mosses, liverworts, hornworts) and lichens.

Watershed Environmental's 1999 report is titled "Botanical Inventory/Native Grassland Survey 4700 Via Los Santos Road, Santa Barbara, California". Summaries of that report clearly show that it does not adequately inventory the botanical resources of the site nor adequately describe and map the native grasslands present. That report needs to be made available to the public for review since the County relies so heavily on that document.

Minimum Botanical Survey Requirements

The USFWS, CDFG, and CNPS each have adopted very similar protocols and guidelines for botanists to follow when conducting field surveys and documenting habitat conditions of a project site proposed for development. Copies of these survey guidelines/protocols are attached for reference, and are incorporated herein. Specific pertinent requirements are discussed below:

USFWS Guidelines (published in 2000³), item "3. List **every** [emphasis added] species observed and compile a comprehensive list of vascular plants for the entire project site. Vascular plants need to be identified to a taxonomic level which allows rarity to be determined" and 4e., "a comprehensive list of all vascular plants occurring on the project site for each habitat type".

CNPS Botanical Survey Guidelines (published in 1983 and revised in 2001⁴), item 4b, "Floristic in nature. A floristic survey requires that every plant observed be identified to species, subspecies, or variety as applicable. In order to properly characterize the site, a complete list of plants observed on the site shall be included in every botanical survey report. In addition, a sufficient number of visits spaced throughout the growing season is [sic] necessary to prepare an accurate inventory of all plants that exist on the site. The

³ U.S. Fish and Wildlife Service. 2000. Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed, Proposed and Candidate Plants.

⁴ California Native Plant Society (CNPS). 2001. Botanical Survey Guidelines. Board of Directors, Sacramento, California. See www.cnps.org for complete text of guidelines. First published in 9 December 1983, revised 2 June 2001.

number of visits and the timing between visits must be determined by geographic location, the plant communities present, and the weather patterns of the year(s) in which the surveys are conducted.”

These guidelines developed and published by the federal and state biological resource agencies, and the botanical profession, through CNPS, establish the minimum standards by which botanical resource inventories are to be conducted. These are the standards expected of the botanical consulting profession.

CDFG (2009⁵) protocols for conducting botanical surveys and assessing impacts are similar to those by the USFWS and CNPS and require floristic field surveys performed enough times of the year to be able to fully identify all plant species.

Nonvascular Plants Not Assessed

There is no mention of nonvascular plants, yet there are numerous species of nonvascular plants that are known from similar habitats nearby, such as the Bridle Ridge/San Marcos Foothills project site a short distance to the east. DMEC conducted a botanical survey of the Bridle Ridge project site in 1997 and 1998 (DMEC 1998⁶) as part of an Environmental Impact Report for that project, finding 59 different species, 23 of those species were found on rock outcrops/boulders. Field surveys were conducted in multiple seasons for vascular as well as nonvascular plants. Several species of lichens on the Bridle Ridge site were considered rare and mitigation was proposed to protect them. Many of the rare lichens at the Bridle Ridge site were on boulders within grassland areas. The Park Hill Estates project site contains similar habitat and may also contain rare lichen species. Surveys of the lichen and bryophyte flora must be conducted before the inventory can be considered adequate. Below are photographs of just a few of the lichen species found onsite.



At least five different species of crustose lichens are illustrated above growing on the boulders onsite.

The lichen and bryophyte flora are important parts of the plant biodiversity of the project site, which has not been recognized in any manner in the MND or supporting biological reports.

Proposed Final MND 2011

Page 7, Section 3.2, Environmental Baseline, now states (as compared to the June 2011 draft MND) that the assessment was based on conditions at the time of the Initial Study at 2010; however, it does not apply

⁵ California Department of Fish and Game (CDFG). 2009. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities. 24 November 2009. California Natural Resources Agency, Department of Fish and Game, Sacramento, California.

⁶ David Magney Environmental Consulting. 1998. Botanical Resources of the Bridle Ridge Development Project, Santa Barbara County. May 1998. (PN 97-0162.) Ojai, California. Prepared for County of Santa Barbara, Santa Barbara, California. Prepared on behalf of Rincon Consultants, Inc., Ventura, California.

or consider baseline conditions equally. Most of the surveys for biological resources were performed in 1998, with supplemental work done in 2009, and County review in 2011; however, there have been no wildlife surveys since 1998-1999 and never any surveys for non-vascular plants. There have never been any rare plant surveys during the spring or early summer months.

Page 26, Background and Site History, states that the project site has largely been in a natural state except that it had been dryland farmed for at least one year in 1968; including a small orchard in the southwest corner of the property. Afterwards it was used only for grazing horses until 1995. The site has been unused for any human purpose since 1995. The presence of the boulder outcrops over much of the property is clear and compelling evidence that the majority of the property has never been tilled.

Botanical Resources

Page 27, Methods, state that a botanical survey was conducted in March 1998 (Watershed Environmental 1999), a vegetation survey in August 2010 (Watershed Environmental 2010), and that the County performed grassland sampling in April 2011; “Methods were *largely* based on CNPS survey guidelines (CNPS 2001), and CDFG survey guidelines (CDFG 2009). Quantitative sampling was not performed”. A County P&D biologist visited the site in December 2000, May 2003, July 2010, and March and April 2011.

As stated above under DMEC’s review of Watershed Environmental’s botanical survey report, not one biologist surveying the project site followed standard or defensible field survey methods, yet the conclusions made by the County regarding impacts to botanical resources by the proposed project are based primarily on Watershed Environmental’s inadequate reports and site verification visits by the County biologist. Botanical survey “largely” based on standard survey protocols are NOT following survey protocols. DMEC contends that neither Watershed Environmental or the County did not get even close to “largely” following the survey protocols. Specifics of these failures are further explained below.

Vegetation Sampling

Standard scientifically acceptable (statistically valid) sampling design generally requires at least 20 samples (Dytham 2003⁷), in this case transects or plots. Only 10 plots were sampled onsite, apparently in April 2011, to verify Watershed Environmental’s August 2010 vegetation survey. Dytham (2003⁸) states (on page 3) that when sampling two groups, an equal number of samples should be taken from both groups. This applies to Watershed Environmental’s work and the County’s verification since they were attempting to distinguish “non-native grasslands” from native perennial grasslands, i.e. two groups. However, both Watershed Environmental’s and the County violated scientifically and statistically-sound sampling methods by not collecting data from each basic group, by not sampling the areas randomly (a basic tenant in statistical sampling), not having enough samples to truly be statistically representative, and not sampling in other seasons when a significant component of herbaceous grassland species are present.

Sampling should capture the entire range of conditions or variables. Sampling should capture each variable, in this case, a plant species, at least once. The sampling by Watershed Environmental apparently consisted only of a meandering foot survey and recordation of species observed in field notebooks, detecting less than 86 plant taxa (Watershed Environmental’s report states that 89 species were observed; however, only 86 are included in their Table 3). No transects or survey plots were established. There is no description, other

⁷ Dytham, Calvin. 2003. *Choosing and Using Statistics: A Biologist’s Guide*. Second Edition. Blackwell Science. Malden, Massachusetts.

⁸ Ibid.

than referring to USFWS, CNPS, and CDFG guidelines, as to how plant communities were identified or how the boundaries were determined.

The County sampled 10 plotless plots, and one belt transect on 6 and 14 April 2011. Sampling design should include enough transects to sample each taxon present at least once to ensure statistical validity. CNPS Vegetation Ecologist, Jennifer J. Buck-Diaz states, “I was disheartened to see the quote ‘In addition, it is important to note that Rapid Assessment [RA] sampling is by its very nature a plotless technique (i.e., there is no set size for plots), and it is frequently used in grassland classification (see Sawyer, Keeler-Wolf and Evens, 2009)’. CNPS does not [emphasis added] recommend the use of Rapid Assessments for grassland classification.”⁹

CNPS Vegetation Program Director, Julie Evens states, “Please note: that the CNPS Vegetation Program typically recommends using a plot-based or belt-transect based approach for sampling of grassland communities. Because they are typically diverse and patchy assemblages of herbaceous plants, a bounded plot technique provides a more accurate reflection of the plant richness/cover present (as compared to the rapid assessment method). It appeared that the firm on this project did do some plot-based surveys, which is good. Even so, CNPS has conducted rapid assessments of grasslands once we have determined that enough replicate plot samples have been taken to define the grassland types, since this RA technique allows for broad representation of areas when time is minimal on mapping projects.”¹⁰

Sampling plots/transects should be established randomly (Dytham 2003¹¹). Or if they need to be stratified, randomness must be implemented at some point to avoid or minimize bias by the sampler. Below is language from a Texas A & M University Galveston description of vegetation sampling methods.

“The most common quantitative sampling methods are the quadrat method and the transect method. The quadrat method allows the user to define a fixed area, called a plot, within which plant characters can be measured. Usually, a rectangular quadrat frame, such as the one shown in Figure 1 (not included here), is used to define the sampling area, although a quadrat can also be a permanently established area within a site. Although the exact experimental design will determine where and how many samples are taken, the procedure always involves measuring plant characters of only those plants inside the quadrat. Quadrat sampling usually attempts to define plant community characteristics for an area much larger than the actual area sampled. For this reason, care must be taken to obtain samples that represent the entire habitat and that eliminate the human factor. Usually this means employing an experimental design that ensures random placement of the frame or permanent quadrat.”¹²

“Data collected in the field are usually subjected to some type of statistical analysis. Statistical methods range from simple to complex, with the exact method chosen depending on the objective of the study and the original experimental design.”¹³

Apparently, no one bothered to use any statistical tests to determine the validity of their sampling methods or hypotheses, as is standard in such studies, or at least it should be standard practice. DMEC presumes

⁹ Buck-Diaz, Jennifer J., California Native Plant Society Vegetation Ecologist, email to David Magney re: Proposed Final MND, dated 25 October 2011.

¹⁰ Evens, Julie, California Native Plant Society Vegetation Program Director, email to David Magney re: Proposed Final MND, dated 25 October 2011

¹¹ Ibid.

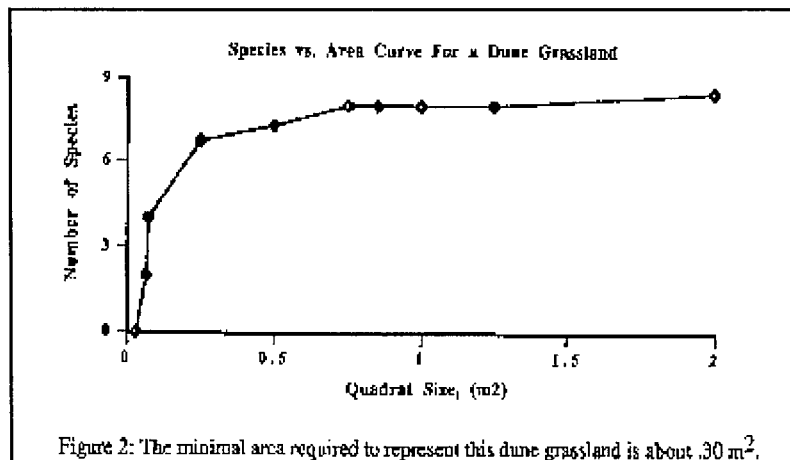
¹² Texas A&M University at Galveston webpage titled. “Scientific Methods for Studying Vegetation”. <http://www.tamug.edu/seacamp/virtual/methods.htm>

¹³ Ibid.

that Watershed Environmental and the County hypothesized that native and nonnative grasslands could be distinguished/mapped onsite. They further biased their sampling by not using any randomness in establishing plots or how they actually sampled, all of which are basic sampling protocols, that is, random sampling is vital to removing bias by the data gatherer (Dytham 2003¹⁴).

Both Watershed Environmental and the County failed to use sample design protocols when determining the size of the relevé plots. First, Watershed Environmental should have assessed the plant community by walking/surveying it and making a list of all plants found during appropriate seasons. The County should have done the same, and only when they reached the plateau of the species-area curve, then they could determine the bounds (size) of the relevé plot(s).

The species-area curve is a chart/graph that indicates the number of species found per unit area. A normal species-area curve will be very steep in the beginning, leveling off at a point when the survey area is so large that the area includes a majority of species occurring in that area, in this case, an area of grassland vegetation. Below is an example of a species-area curve taken from a Society for Ecological Restoration Management Notes website (Fibelibus and MacAller 1993¹⁵).



This curve can be used as a guide to determine the minimum size of the sampling plot to ensure that the sampling minimizes sampling bias, to make sure that the vast majority of species that make up the plant community actually get sampled. Had Watershed Environmental and/or the County followed sampling design and methods as described by the Bureau of Land Management (1999¹⁶), the results would almost certainly have been accepted and show different results than has been presented.

On the issue regarding the seasonality of the sampling, as can be seen in the photographs below taken on June 17th, the “non-native” grasslands of Santa Barbara Ranch south of the railroad tracks west of Isla Vista are clearly dominated by *Deinandra fasciculata*, with well over 10 percent cover over a large portion of the site. All the yellow visible in these photographs is *Deinandra fasciculata*, a common native grassland

¹⁴ Dytham, Calvin. 2003. *Choosing and Using Statistics: A Biologist's Guide*. Second Edition. Blackwell Science, Malden, Massachusetts.

¹⁵ Fibelibus, M.W., and R.T.F. MacAller. 1993. *Methods for Plant Sampling*. Prepared for California Department of Transportation, District 11, San Diego, California. San Diego State University, Biology Department, San Diego, California. Published in *Restoration in the Colorado Desert: Management Notes*. Available at <http://www.sci.sdsu.edu/SERG/techniques/mfps.html>.

¹⁶ Bureau of Land Management. 1999. *Sampling Vegetation Attributes*. (Interagency Technical Reference 1734-4.) Denver, Colorado. Available at <http://www.blm.gov/nstc/library/techref.htm>

species. Watershed Environmental and the County both list this species as present on the Park Hill Estates site, but the dominance of the site by this grassland species changes dramatically as many sites within its range between spring and summer.



Bartolome et al. (2007¹⁷) compared grassland-sampling methods and determined that foliar cover sampling “results vary with season and weather, which can be misleading”. This finding supports DMEC’s contention that Watershed Environmental’s and the County’s sampling were flawed for the purposes of determining native grassland species dominance. DMEC does note that the County otherwise made an attempt to follow CNPS vegetation assessment protocols; however, they were not statistically valid or performed in the summer months as well as the spring, and they inappropriately used relevé plots to characterize the vegetation.

Vegetation Mapping

While DMEC contends that the vegetation sampling did not follow statistically valid methods, the mapping by the County was more accurate for grassland vegetation than mapped by Watershed Environmental; however, without the actual relevé plot areas were not mapped, were not supported by defined plots. There appears to be a heavy bias by the mapper in minimizing the area mapped as native perennial grassland and scrub habitats. The boundaries of the plant communities were absurdly tight (nearly every bush was individually delineated) and but not applied equally for all vegetation types. The boundaries of plant communities are rarely finite; there is often a zone of transition from one type to another. The size of the mapping units should be the same throughout. That is, a minimum polygon size should be determined based on the objectives and size of the project site, and applied uniformly across the site. In this case, the spaces between shrubs containing herbaceous vegetation were classified as annual grassland instead of coastal scrub when grassland types were more generally delineated.

A cursory survey of the site by DMEC on 27 October 2011 found the boundaries between annual and perennial grasslands to be nebulous (not obvious) and the areas between shrubs in the scrub vegetation to be dominated by perennial grasses. Any line drawn dividing perennial grassland and annual grassland on the Park Hill Estates project site is arbitrary at best without extensive plot/transect sampling.

¹⁷ Bartolome, J.W., G.F. Hayes, and L.D. Ford. 2007. Monitoring California Grasslands for Native Perennial Grasses Workshop Handbook. 10 July 2007. ESNEER Coastal Training Program, Berkeley, California.

The grassland onsite are primarily perennial in nature, with patches, some large, with few or no perennial grass species; however, the parts without perennial native grasses represent fingers or patches of annual grassland vegetation that make up a mosaic of herbaceous vegetation that provides habitat for many species of wildlife. Most of the wildlife species using this site use both vegetation subtypes (annual versus perennial).



Photographs of grassland areas of Park Hill Estates site with unusually high densities of *Nassella* [*Stipa*] *pulchra* (Purple Needlegrass), representing Native Perennial Grassland.

The criteria used by Watershed Environmental and the County to delineate the different habitat types are not clearly stated. Examining the edges of the mapped polygons, it is clear that both took extreme care to minimize the areas mapped as scrub and native perennial grassland. However, the approach taken is not justified since no mapping criteria (methods) were stated or supported by sampling plots (at least they are not shown on any maps). There is no stated minimum polygon size; however, it is clear that the areas of only the shrubs are mapped as scrub even when the distance between shrubs and mapped as annual grassland is less than the width of the shrubs mapped as scrub. For grasslands, the areas with only the highest densities of Purple Needlegrass appeared to mapped as Native Perennial Grassland without consideration of other native grassland species presence.

Page 6, last paragraph of the November 2011 staff report states, “The remaining areas of the site are composed largely of non-native annual grasslands and coastal sage scrub, although individual specimens of purple needlegrass and other native species are scattered throughout these areas.” By most definitions of grasslands, if there are any individuals of a native perennial grass species, or other native grassland species, present then the habitat should be considered perennial native grassland, especially when adjacent areas contain denser cover by the perennial species. Functionally, both areas are quite similar and serve the same needs for wildlife. Without detailed analyses of the two areas with scientifically valid sampling, any separation is entirely arbitrary and unfounded.

Since grasslands throughout California have been reduced by 99 percent already, any remaining grassland habitats are vitally important as habitat for wildlife, and those grassland areas currently dominated by non-native species represent important opportunities for restoration to more native conditions. All the grassland areas at the Park Hill Estates site are functionally equivalent and warrant protection, and impacts to them should be considered a significant impact. The fact that a native perennial bunchgrass, Purple Needlegrass,

is basically found throughout the property at varying densities is strong evidence that all, or at least most of the site should be classified as native perennial grassland.

County General Plan Policy Bio-GV-1 requires the County to provide protection to important or sensitive environmental resources and habitats, yet the November 2011 staff report states that there are no such habitats onsite. County General Plan Policy Bio-GV-14 states that, “to the maximum extent possible, areas of native grasslands shall be preserved”. The fact that both the County and the California Department of Fish and Game, and the California Native Plant Society, consider native perennial grasslands such as Purple Needlegrass Grassland as an important and sensitive habitat should be more than adequate justification to consider this habitat onsite as an important and sensitive environmental resource. Doing otherwise is contrary to General Plan policy. Simple because the property contains a significant amount of a sensitive habitat does not excuse the County from abiding by its General Plan policies. The reasons given by the County as to why protection onsite is infeasible is poorly explained, or explained without evidence in fact that at least a portion of the native grassland cannot be preserved onsite. The fact that a 14+-acre site surrounded by development currently contains high value native grassland habitat clearly demonstrates that relatively small areas of this habitat can be maintained. They should be protected onsite.

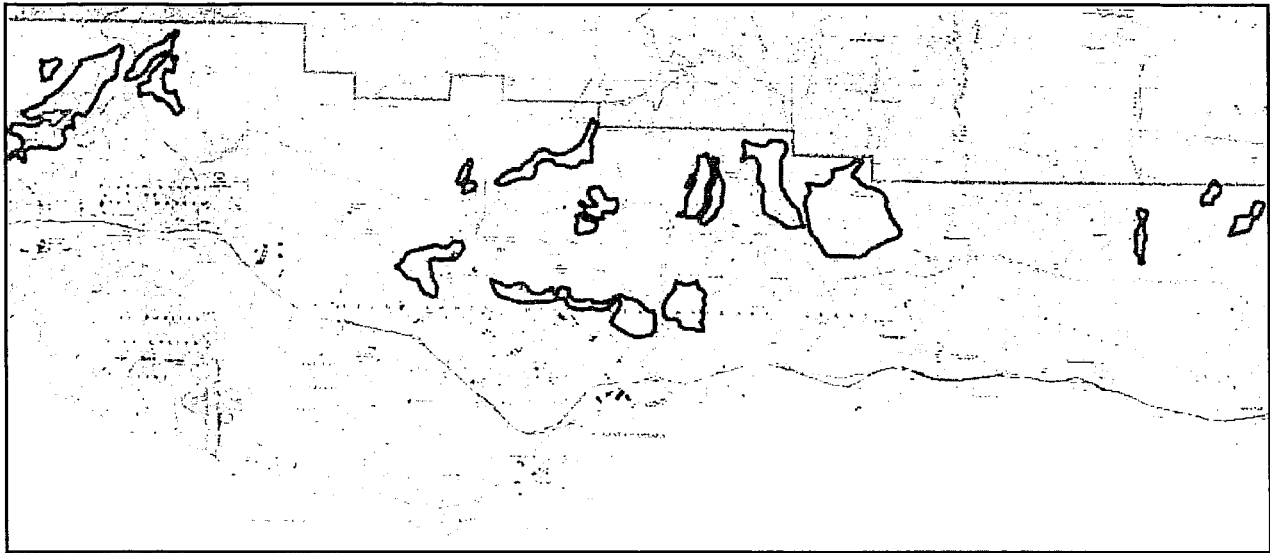
General Plan Policy DevStd BIO-GV-22.2 requires any offsite mitigation site be given “a permanent protective easement”. The University of California is not likely to encumber state property with a protective easement, making the suggested mitigation site unsuitable for mitigation for the Park Hill Estates development.

Question of In-kind Grassland Mitigation

The grasslands and scrub onsite grow in Milpitas stony fine sandy loam soil, 9-15 percent slope (MND page 6, 2nd paragraph). There are only 2,047 acres of Milpitas stony fine sandy loam, 9-15 percent slopes, soil (MdD mapping symbol) in Santa Barbara County as mapped by the Natural Resources Conservation Service, with only 136 acres of it on 2-9 percent slopes, and 1,934 acres on steeper slopes, the later both typically supporting scrub vegetation, not grasslands. The Milpitas soil series is relatively shallow and course-grained, and is classified as a thermic Mollic Paloxeralfs. The vast majority of Milpitas stony fine sandy loam soil, 9-15 percent slope, soils along the Santa Barbara south coast have been developed, most of it occurring in the Santa Barbara and Montecito area, as shown on the map below.

The soils near Coal Oil Point on UCSB property where the proposed offsite mitigation would be contains Concepcion and Diablo soils, not Milpitas. The Milpitas soils are derived from bedrock while the Concepcion soils are derived from alluvium and have a claypan, and are classified as thermic Xeric Argiobolls. Diablo soils are derived from residuum weathered from mudstone and/or soft shale, and are classified as thermic Chromic Pelloxererts. Neither are the same as, or similar to, Milpitas soils. Soil conditions of a mitigation site are one of the most basic considerations that must be accounted for to achieve mitigation success.

Attempting to restore Milpitas stony fine sandy loam soils grasslands on other soil types is a recipe for failure. While it is possible, even likely, to be able to grow Purple Needlegrass on the Diablo clay soils, the diversity and species composition, plants and wildlife, will not be duplicated/replicated there. Clearly there was no attempt by those developing this mitigation measure to truly understand conditions of either site or the feasibility of the mitigation measure. It is only a plan on paper lacking substantiation on many levels.



Map of majority of areas containing Milpitas stony fine sandy loam, 9-15% slope soils (MdD – purple areas). Red area is Park Hill Estates property. Most of this soil mapping unit has already been developed. The gray areas on the topo map background indicated developed lands. Some of the non-gray areas have since been developed as well.

Furthermore, there is not enough available habitat at UCSB's West Campus Bluffs property to accommodate all the grassland mitigation that is needed, even if it were appropriate and contained similar soils. The West Campus Bluffs preserve area is similar in size to that of the project site; however, significant portions of the bluffs site contain vernal pool wetlands. The site is bounded by development on three sides and is no more defensible from encroachments than areas of the Park Hill Estates site that could be preserved. The fact that UCSB has gotten Purple Needlegrass plants transplanted from the project site to the West Campus Bluffs property to survive does not mean that the perennial grassland habitat found onsite can be successfully recreated there.

These factors bring into question whether the offsite location can reasonably or feasibly recreate the same type of grassland habitat to be destroyed at the Park Hill Estates project site. Clearly the soils are very different, and the proximity to the ocean of the West Campus Bluffs site, immediately adjacent to the ocean, is a different microclimate, with substantially more foggy days than the Park Hill Estates site.

Wetland Habitat

The County biologist found a small population of *Juncus occidentalis* (formerly known as *J. tenuis* var. *occidentalis*) in a shallow swale onsite; however, she did not feel that it was extensive enough to map or consider a wetland habitat. *Juncus occidentalis* is listed by the U.S. Fish and Wildlife Service as a Facultative Wetland (FACW) hydrophyte, as indicated in the MND. Since plants typically found in wetland habitats are growing there for a reason, it is curious, and should have sent up red flags, that maybe a shallow groundwater table occurs within the swale they were growing in.

Looking for additional evidence that this might be the case, DMEC reviewed the list of vascular plants reported from the project site to see if there were other hydrophytes present. The results of this examination found a total of 16 species that are found in wetlands at least 50 percent of the time. This is very strong evidence that wetland conditions do indeed occur onsite. Those plants are: *Crassula connata* (FAC), *Eleocharis macrostachys* (OBL), *Hordeum brachyantherum* (FACW), *Leymus triticoides* (FAC+),

Lolium multiflorum (FAC), *Plantago major* (FACW-), *Poa annua* (FACW-), *Plantago lanceolata* (FAC-), *Picris echiooides* (FAC*), *Phalaris aquatica* (FAC+), and *Sonchus asper* (FAC-).

Having performed many wetland delineations throughout California, my experience leads me to believe that wetland habitat may indeed be present onsite.

Wildlife

VJS Biological conducted a survey of wildlife in 1998 and reported observations of several bird and mammal species, and one reptile; however, there is no evidence that he conducted any surveys for any invertebrate species. It does not appear that any supplemental surveys for wildlife species were ever conducted onsite, even though VJS Biological's surveys are now over 13 years old. A copy of the wildlife survey report should have been included as an appendix to the MND.

Since wildlife are mobile, and many more species of wildlife are now considered rare, it is of great concern that the County did not consider this component of the biological resources in the current MND.

For example, several species of terrestrial land snails are known to occur in Santa Barbara County (Roth and Sadeghain 2003¹⁸) and that several of them are rare (CNDDDB 2009¹⁹ and Magney 2009a²⁰). DMEC has compiled a GIS database of all terrestrial snails and slugs of California based primarily on Roth and Sadeghain's work and has been identifying those species that are rare based on their distribution and known occurrences, such as for Ventura County (Magney 2009a) and Los Angeles County (Magney 2009b²¹). Based on this work, several species of terrestrial snails known to occur in Santa Barbara County need to be considered for potential for impacts on them. Some of these taxa are considered sensitive by the California Department of Fish and Game's Natural Diversity Database (CNDDDB 2009) and several additional species are currently under consideration for addition to that list based on my research.

Below is a list of the native terrestrial snails and slugs known to occur in Santa Barbara County mainland:

- *Ariolimax columbianus strimineus* (7 counties and 2 islands)
- *Haplotrema caelatum* (4 counties, not on islands)
- *Helminthoglypta cuyama* (1 county, not on islands) – Santa Barbara County endemic
- *Helminthoglypta fieldi* (2 counties, not on islands)
- *Helminthoglypta phlyctaena* (1 county, not on islands) – Santa Barbara County endemic
- *Helminthoglypta umbilicata* (3 counties, not on islands)
- *Hesperarion hemphilli* (8 counties, not on islands)
- *Nearctula rowellii rowellii* (7 counties and 3 islands)
- *Paralaoma servilis* (31 counties and 2 islands)
- *Striatura pugetensis* (32 counties and 2 islands)
- *Zonitoides arboreus* (33 counties)
- And 8 nonnative species. (Roth & Sadeghain 2003.) One species observed onsite by DMEC.

¹⁸ Roth, Barry, and Patricia S. Sadeghain. 2003. Checklist of the Land Snails and Slugs of California. (*Santa Barbara Museum of Natural History Contributions in Science* No. 3.) Santa Barbara, California.

¹⁹ California Natural Diversity Database (CNDDDB). 2009. Special Animals. March. California Department of Fish and Game, Biogeographic Data Branch, Sacramento, California.

²⁰ Magney, D.L. 2009a. Ventura County Wildlife – Terrestrial Snails and Slugs. 1 June 2009. David Magney Environmental Consulting, Ojai, California. Published through the Sespe Institute (www.sespeinstitute.com)

²¹ Magney, D.L. 2009b. Terrestrial Snails of Los Angeles County. 20 August 2009. David Magney Environmental Consulting, Ojai, California. Published through the Sespe Institute (www.sespeinstitute.com)

Those rare species tracked by the CNDDDB known to occur in Santa Barbara County include:

- *Haplotrema caelatum* – Slotted Lancethooth (GINI rarity ranking)
- *Helminthoglypta phlyctaena* – Zaca Shoulderband (G1G2N1N2)

There are undoubtedly additional species; however, the list specific for Santa Barbara County has not yet been developed other than what Roth & Sadeghain (2003) compiled. Seasonal surveys for native terrestrial gastropods (includes snails and slugs) need to be performed to determine if one or more rare species are present onsite, and if they would be significantly impacted by the proposed project. CDFG recently (2009) required Newhall Land & Farming Company to conduct such surveys on the Newhall Ranch for similar concerns, and indeed found four species, two of which Barry Roth, PhD., believes may be undescribed species.

This specific issue was raised in DMEC's comment letter on the June 2011 draft MND and totally ignored the proposed final MND. There is fairly high potential for one or more native terrestrial mollusks occurring onsite, and rare species are known to occur in the region. Surveys and an impact assessment must be part of the CEQA review process to be considered adequate.

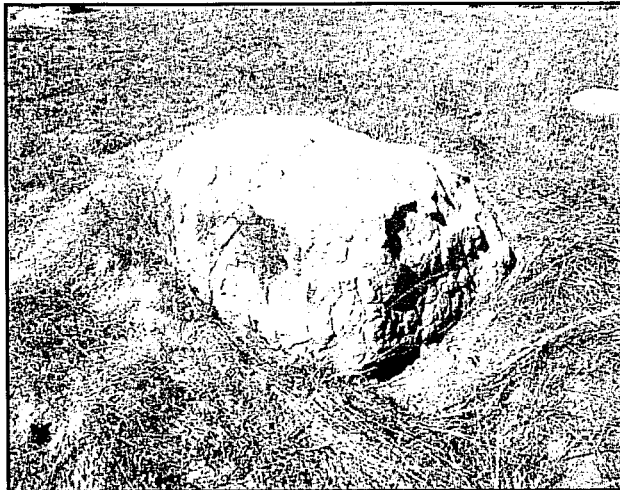
Bird Nests

Calif. Fish & Game Code Section 3503 – prohibits the unnecessary disturbance of any bird nest. Section 3503.5 goes on to prohibit that take of any raptor nest. There is no indication anywhere that a bird nest survey was ever conducted at the project site.

Page 34, e). Specimen Trees, states that the "...removal of one Elderberry tree located on Lot 19, however, this impact would be less than significant given that the tree does not provide significant habitat value for nesting, breeding, or roosting for rare, threatened, endangered, or sensitive species, nor does it provide a significant food source for area wildlife". This conclusion is not substantiated by the evidence and mischaracterizes the facts. No surveys for bird nests were ever conducted except for White-tailed Kite, and that occurred over 12 years ago. There is no evidence that any surveys for active or inactive bird nests of any kind were performed recently. It is well known that suitable nesting sites are not used every year, and that birds will move into unoccupied nesting areas when other sites are already occupied by others, or nesting sites nearby have been destroyed. The probability that there is at least one active bird nest on the 14-acre site is near 100 percent positive. The entire project site needs to be surveyed for active bird nests during the nesting season, generally between March 1st and July 31st.

Burrowing Owl is known to forage and nest in similar habitats as present at the Park Hill Estates project site, such as the Bridle Ridge/San Marcos Foothill property immediately east of State Route 154. It is quite possible that Burrowing Owl, while not observed onsite by Semenson in the late 1990s, could have colonized the project site since then.

DMEC observed raptors using the property during its cursory survey of the property in late October 2011, including American Kestrel and Barn Owl. An owl species, likely Great-horned Owl, uses the boulder rock outcrops as foraging posts and eating stations as evidenced by droppings and owl pellets, as shown on the photographs below.



*Left: white wash bird droppings on a boulder rock outcrop onsite, typical for raptors.
Right: large owl pellet found below old sign post onsite, mostly likely from a Great-horned Owl.*

Staff Report to Planning Commission 2007

The original project, approved in 2007, for the same project site consisted of 12 single-family residences and associated facilities on the 14+-acre site. A 2.2-acre open space lot would contain associated facilities (detention basin) and onsite mitigation for impacts to biological resources.

The assessment of biological resources was based on Watershed Environmental's 1999 and VJS Biological's 1999 reports on botanical and wildlife resources, respectively, as well as opinions of the County biologist.

Since the project avoided some of the impacts to native grassland habitat and the mitigation was proposed to occur onsite, the project was considered to be consistent with the Goleta Community Plan.

Unavoidable cumulative impacts resulting from the project were considered "covered" by a finding of overriding considerations in adopting the Goleta Community (Comprehensive) Plan EIR, as unmitigatable, and no further analysis was required for the Park Hill Estates project (version 1) (see pages 14 and 21 of the 2007 staff report to the Planning Commission).

Inadequacy of Proposed Mitigation Measures

Three proposed mitigation measures focusing on biological resources have serious flaws that make them inadequate or insufficient to reduce stated impacts to less than significant, and need to be amended.

Mitigation Measure Bio-1 (Tree Protection Plan) is intended to protect mature Coast Live Oak trees during construction activities, to just 6 feet beyond the tree driplines. International Society of Arboriculture (ISA) strongly recommends that no disturbance occur 15 feet beyond a tree's dripline or at least 15 feet from the trunk if the canopy is less than 15 feet in any location. The mitigation measure needs to require that construction activities within 100 feet of any tree to be protected be monitored by a Certified Arborist. The Arborist should be empowered to stop all work that may damage a protected tree. The County should also require that a Certified Arborist inspect all the protected trees after all construction has been completed and submit an assessment report for each tree to the County prior to issuing an occupancy permit. The

current proposal states that a qualified biologist may conduct the monitoring. A biologist who is not a certified arborist lacks the specific training and credentials to make appropriate assessments to protect or assess a tree's health. It is inappropriate for the County to allow anyone other than a certified arborist to conduct the monitoring and assessments.

Mitigation Measure Bio-Sp2 (Native Grassland Compensatory Mitigation Plan) requires a minimum of 6.14 acres of native perennial grassland habitat be restored to compensate for the destruction and loss of 3.07 acres of Purple Needlegrass Grassland. This is in conflict with the Goleta Valley Plan Policy BIO-GV-14, which requires that native grasslands be preserved to the maximum extent possible. Clearly, the proposed project makes no attempt to preserve *any* of the native grasslands onsite, even though a previous project approved by the County did exactly that, and the developer believed that the project was still economically viable.

Regardless, the location and condition of the restoration site is not specifically identified and there is no provision to determine what sensitive biological resources are present at that site. The mitigation site will be nearly half the size of the entire project site, and has great potential to contain one or more sensitive biological resources. This is a violation of CEQA in that all components of a discretionary project must be evaluated as one project. The mitigation site(s) must be identified in the CEQA document and activities at them must be evaluated as part of the proposed project. Furthermore, the proposed mitigation measure does not include remedies for total or partial failure of the mitigation.

As stated earlier, the proposed grasslands mitigation site at UCSB's West Campus Bluffs property between Coal Oil Point and Isla Vista is nearly the same size as the Park Hill Estates site and is bounded by dense urban development to the northwest, north, and east, with the Pacific Ocean directly to the south. The soils on the mitigation site are quite different than occurs at the project site. Soil texture, slope, and condition are critical factors in any habitat mitigation plan; however, this fact has been entirely ignored by the County and Watershed Environmental. Preserving blocks of the grasslands onsite has a much higher chance of success than attempting to restore degraded habitat elsewhere on different soils.

Mitigation Measure Bio-21 (Use Natives) requires native plant material to be used in the rear of Lots 11 and 12, presumably to protect adjacent native habitat to be retained. While this is laudable, it will hardly be effective in protecting natural habitats. DMEC recommends that all landscaping within the project site must be of native plants indigenous to the Santa Barbara region and that the landscapes be designed to minimize the amount of irrigation necessary to maintain the landscaping. The mitigation measure, or an additional measure, needs to also prohibit the planting of any invasive exotic species as listed by CalIPC or the California Native Plant Society.

The MND lacks any mitigation measures to protect raptor nests that occur onsite. The MND lacks any mitigation measures to protect active bird nests other than raptor nests. Migratory birds are protected by international treaty, and that protection extends to their nests and habitat. California Fish & Game Code Section 3503 protects the nests of all birds. While proposed Mitigation Measure Bio-Sp3, Raptor, Special Status Species, and Bird Nest Protection, requires surveys to be conducted for any and all bird nests prior to construction and construction needs to be prohibited from within a safe distance from any active bird nest, typically 500 feet for raptors and 300 feet for other species, it does nothing to mitigate for the loss of bird nests onsite.

Mitigation Measure Bio-Sp2 proposes that all the impacts to native grassland onsite would occur in Isla Vista on UCSB property that is planned for restoration by the University. Pages 15-16 of the November 2011 staff report states, "Off-site mitigation is considered to be a viable option in this case for the following

reasons: (1) there is a minimum of 500-600 ft. of existing development surrounding the project site separating it from the adjacent natural habitats of San Antonio Creek and Maria Ygnacio Creek; (2) on-site avoidance and/or restoration options would result in isolated, low-functioning grassland areas; and (3) feasible off-site restoration has been proposed.”. There are several problems with this approach.

First, the landforms of the two sites are quite different. The soils are different. The microclimates are different. It is unreasonable to expect that the exact, or even near conditions of the grassland habitats at the project site can or will be recreated on the coastal terrace site at UCSB, primarily because site conditions are so different. No one has yet fully duplicated natural habitat through restoration. Natural habitats such as native grasslands take hundreds if not thousands of years to develop, and grow in well-developed soils. The geomorphic landscape on which the project site occurs is significantly different than the geomorphic landscape of the proposed UCSB mitigation site, which is much younger geologically than the project site.

Page 34, paragraph 4 of the MND states, “(2) on-site avoidance and/or restoration options would result in isolated, low-functioning grassland areas”. This claim is false and unsubstantiated. The fact that a 14+-acre site surrounded by urban developed currently contains high-functioning grassland habitats is hard evidence of the fact that small areas of natural habitat can and do exist, and provide important and valuable habitat functions. Really, the only results likely at the mitigation site, based on the prescriptions provided in the habitat restoration plan by Watershed Environmental would be a crop of Purple Needlegrass at the mitigation site, which is also immediately adjacent to urban development. This would in no way mitigate the impacts to an important grassland habitat.

CEQA requires that all aspects of a project undergo an assessment of effects, including that of proposed mitigation sites. No such assessment of the proposed mitigation site has been performed, nor has any documentation of the mitigation site been provided as part of the record. There is no evidence provided that the County has even visited the proposed mitigation site.

Page 35, paragraph d) Non-native Vegetation of Habitat Value, grossly mischaracterizes habitat conditions and ecological processes onsite. First, the area of grassland habitat dominated by non-native species is exaggerated. Second, the County claims that non-native herbs and grasses will continue to colonize the site grasslands from adjacent sources. As explained earlier, characterization methods used by Watershed Environmental and the County were seriously flawed, biased, and not substantiated by statistically valid sampling, or by proper seasonal field surveys. There is little if any “sources” of invasive exotic grassland species on adjacent developed lands, so to claim that any remaining grasslands preserved onsite would be threatened by continual invasion/recolonization from adjacent lands is unsubstantiated and false. The only intent of such claims is to bias decisionmakers away from preserving valuable habitat onsite.

Preservation of grassland habitats onsite is indeed a viable option to avoid and minimize project-related impacts to valuable grassland habitats, and actually much more viable than attempting to recreate them offsite on an entirely different geomorphic landscape. Controls on what species are used in landscaping is a common and routine method of minimizing future problems of colonization of protected areas from new development sites. This is in-fact exactly what Mitigation Measure Bio-21, Use Natives, requires (page 40 of the MND).

Page 36, paragraph e) Specimen Trees, claims that the native and non-native trees onsite are not considered healthy specimen trees; however, there is no evidence provide by a certified arborist or the criteria followed to make such a determination. Such a description of the trees onsite represents an unqualified opinion without any reasoned basis. Every tree has value and function. How much value and what functions it/they provide depends on a wide number of variables, none of which where considered by the County or the

developer's environmental consultant. The trees should be assessed and appraised by a qualified arborist, such as those certified by the International Society of Arboriculture (ISA).

In conclusion, DMEC believes that the County cannot reasonably perform an impact assessment of the proposed project since the biological surveys of the project site are both seriously dated (i.e. out of date), inadequate in not surveying for entire groups of plants (nonvascular plants) and wildlife (invertebrates). Since true baseline conditions are not truly known, it is impossible for anyone to make reasonable conclusions regarding significance of impacts on the biological resources present on the 14+-acre project site. Furthermore, measures recommended to reduce what significant impacts that were identified are either inadequate or infeasible. There was no attempt to avoid any of the project-related impacts to biological resources.

Please contact me if you have any questions about this letter.

Sincerely,



David L. Magney
President/ISA Certified Arborist

cc: Danny Vickers, San Antonio Creek HOA
David M. Brown, Conservation Committee Chairman, Channel Islands Chapter, California Native Plant Society

NELSON LAW FIRM
735 STATE STREET
SUITE 212
SANTA BARBARA, CALIFORNIA 93101

JEFFREY C. NELSON

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

November 30, 2011

FILE COPY

J

Santa Barbara County
Planning Commission
123 E. Anapamu St.
Santa Barbara, CA 93101

12 05-11

**Re: December 5, 2011 Hearing agenda item 2-
Park Hill Estates v.2**

Dear Chairman Valencia and Commissioners,

This is another infill property that is hopefully near the end of a long planning saga.

The History and Process

The current owners, DHL Realty Inc., an entity composed of two friends who moved from New York, bought the property in 1971. In 1972 the Goleta Water District imposed a moratorium that stopped development until 1997. DHL resumed processing then with the main issues raised by the County being that they create a second onsite road, deal with native grass mitigation and deal with affordable housing requirement.

They were mired in planning until 2004 when owner Lou Zeluck died. They proceeded on with other help which resulted in a project approved by your Commission in 2007.

The housing market dropped substantially, particularly for luxury lots and the property did not sell. Two years ago we became involved in the project as our family company The Oak Creek Company became applicant and developer. We re-filed an application trying to change the permits so that it would become a feasible project.

We had the benefit of viewing all Planning Commission hearings and seeing all letters from neighbors so our application in April of 2010 went through every single issue and condition that had been imposed or raised in 2007. While our original plan filed in 2010 met all planning requirements and rules, we agreed four months ago to delete two homes and reconfigure the project in response to neighbor input, so the project before you is the compromise plan.

The 2010 application- Two main issues

The two main issues, still alive since 1997, were as follows:

RECEIVED

NOV 30 2011

S.B. COUNTY
PLANNING & DEVELOPMENT
HEARING SUPPORT

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. Unbeknownst to us, those in-lieu fees would now be \$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.

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. 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. See attachment on that issue.

2) The second 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 2 acres of isolated patches of grasslands. In that approval, the mitigation was to plant new grasslands in the detention basin and in six 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 problem.

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.

“5 foot strip issue”

The Commission in 2006 and 2007 heard of the “5 ft. strip” problem. It is as follows: Pennell Road is a 60 ft. wide easement for road and utilities at the very top (north) of the property. Half of that is on this Park Hill property and half is on the 5 parcels across Pennell to the north. The Jette property is the 5 acres to the west of Pennell Road; that road is its only access.

In 1959 the Goleta Water District told the Jettes that their water line under Pennell Road had to be in deeded land rather than in an easement. The Pennell sisters who owned the Park Hill property cooperated with the Jettes to “deed” them a 5 ft. strip at the bottom of the Pennell 60 ft. easement

for the water line location. This was an illegal subdivision to create a standalone parcel 5 ft. wide and 856 ft. long. The Jettes could end the violation by quitclaiming the 5 ft. strip parcel back to the Park Hill property. They agreed to in 2007 and in exchange the Park Hill property was to deed them the 30 ft. width depth of Pennell Road on this property.

As explained in attached letters, it is best not to deed that to the Jettes, as this Park Hill property will become 14.97 acres when it receives that strip back, facilitating a possible future lot line adjustment for having 15 market units on 15 acres. Kevin Ready recently suggested that the Jette's receive back an easement over the road for egress and utilities and with no limitation on usage so a future division of the Jette property does not "overburden" the Pennell Road easement. That seems reasonable to us. The Jettes are doing planning for future development of their property and they have to clear up this issue to develop, per Kevin Ready.

Environmental

The County designated 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.¹

The *catch 22* of infill sites is if they have been used agriculture & tilled- then neighbors interested in keeping them undeveloped tout the land as Ag land. If they have been untilled, neighbors say the land should remain undeveloped for their biologic attributes which they have attained since they are untilled. This property was indeed dry farmed in its past, has no protected plants and could be tilled for fire safety control² or return to interim dry farming.

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

¹ One case holds 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. 3rd 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. 3rd at 1476).

"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)

² Indeed in spite of mowed grasses a fire broke out on the property near Mr. Vickers property in 2008 with 100 ft. high flames from the dry grass, per his prior input.

project developed the entire site, the same area being developed with PHE v.2. That MND went unchallenged. You may hear from neighbors of alleged newfound biologic attributes, but there is no substantial evidence of that nor have the neighbors asked us for further studies in the many meetings we have had with them as to density, affordable housing, building setbacks and height limitations. The County Staff biologist determined there to be no white tailed kite, raptor or other species in onsite survey's and the Mitigated Negative Declaration determines that the survey's for native grasses and other bio resources are sufficient for the purposes of CEQA.

Neighbor issues

We have earnestly worked with neighborhood interests to address their concerns in a reasonable fashion. We have had a multitude of meetings with neighbors in different numbers and settings for over a year. After the Mitigated Negative Declaration hearing we met again and changed the plan entirely dropping two market rate homes, expanded setbacks, reoriented lots and lowered already low roof heights. We have changed every single lot in the project, most of this directed by specific comments by neighbors. So the plan before you is very much built on their direct input.

We also worked directly with the Parks Department and Tuckers Grove Park Director to assure that the emergency access though that site, which is only 3/10 of a mile from the bottom of our project, is available as an emergency access, more so than in 2007 when it was discussed.

As this is a subdivision creating only lots, there has been a natural concern about the specifications of the homes to be built here. Many of the conditions address that. Our application also adopted much of the work on limiting building heights etc. that was done in 2007.

To help neighbors and decision makers to better view a completed project based on these building specifications, we worked with David Black and Associates in developing the attached site plan which is an example of implementing these lots and maximum home sizes in this neighborhood.

We don't know what neighbors' reactions will be to all our project changes. Communications about these changes have been funneled though Danny Vickers, who lives across from the property, and has been the point of contact. We have made significant changes in the project as a good faith response to comments by neighbors, including their input in the MND hearing. We don't know to what extent this satisfies neighbors' concerns as we are a step removed from their internal communications. This was first headed for hearings in November of 2010 and neighbors have actively sought delays in the process thinking that would help thwart this project.

We have met with neighbors in big and small groups for over a year. Danny Vickers has said repeatedly "it is all about property values". The points of discussion have focused on density, affordable housing, building setbacks, varied architectural styles and building heights. Our compromise plan is designed to address each of these issues. The neighbors have thrown the "kitchen sink" at the project endeavoring to stop it. The issue of more biological studies has never been a part of the dialog brought up by the neighbors.

It appears the neighbors are saying two things. The first is that development of the 2007 plan is perfectly fine. The second is that the biology of this property is such that it should not be

developed without a full EIR on biology. Those two positions are in conflict. If it is all about biology rather than property values, then the neighbors' position should be that the property should not be developed with 12 homes or 16. If development of the 12 homes is perfectly fine then the biology issue is a ruse and attempt to stop the project with significant time and cost delays.

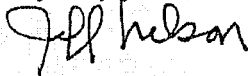
This project is about 4 additional homes above the 12 approved in 2007 and offsite grassland mitigation. In the context of the debates about density in eastern Goleta this project at 1.08 units per acres is at the extreme low density end of the planning scale. That density is extremely low by any statewide standard for a project including affordable housing.

Infill projects are both the best possible housing from an urban planning perspective and the most difficult in terms of neighborhood dynamics. People get used to open fields next to them and imagine only the worst when something new is proposed. We have helped successfully navigate many of the eastern Goleta projects to a successful conclusion, each of which has become a complement to the surrounding neighborhood.

We believe this will be an outstanding complement to this area. It will provide compatible homes, safe walkways along and through the project, which largely do not exist elsewhere in the neighborhood and will provide new top quality fire safe homes and 4 new hydrants in this area.

It has been an arduous planning process, both from 1997 on and with our most recent application.³ We are pleased to be able to share our efforts with the Planning Commission.

Very truly yours,

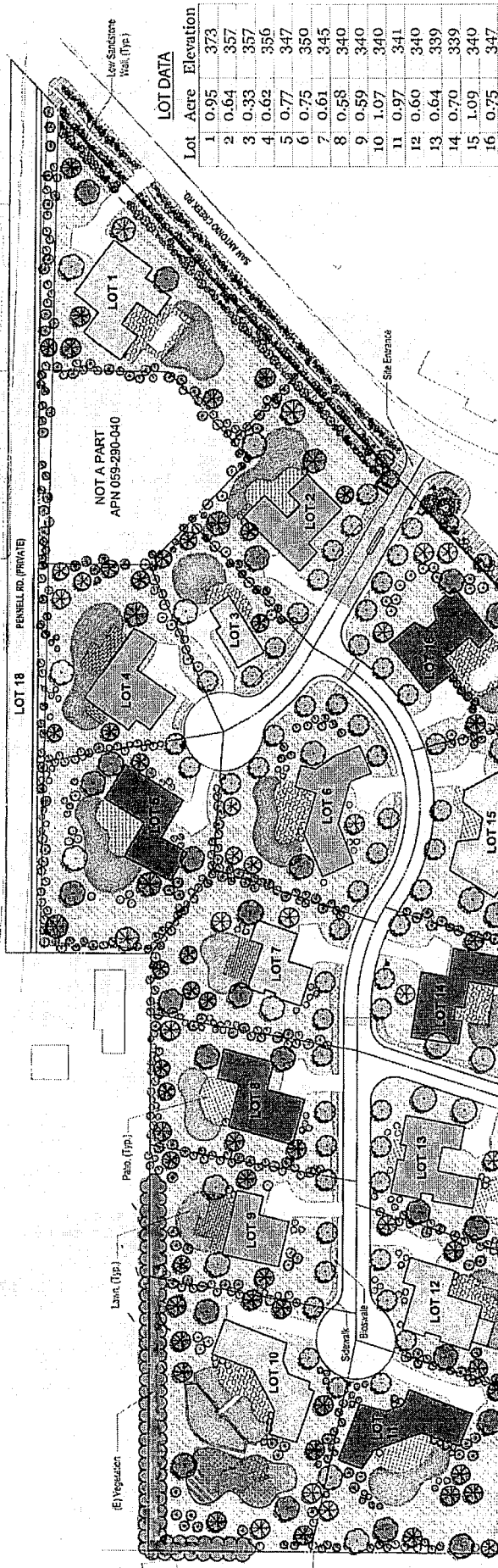


Jeffrey C. Nelson

Attachments as to:

- Artistic rendition of homes in project (David Black)
- UCSB Cheadle Center off site grassland mitigation location
- Project changes since MND hearing
- Comparing this project with other approved projects
- Affordable housing input
- Tuckers Grove emergency access- Declaration
- 5 foot strip issue
- Letters on Bonus Density and Grasslands
- Letter on Environmental issues
- Artistic rendition of project in neighborhood (David Black)
- Landscape plan

³ We incorporate by reference to the administrative record all matters we have submitted to the County and all communications, in conjunction with this matter.



LOT DATA

Lot	Acres	Elevation
1	0.95	373
2	0.64	357
3	0.93	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

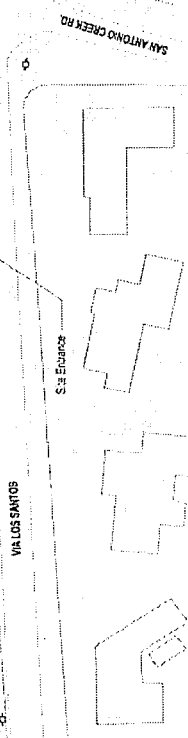


Entry Concept

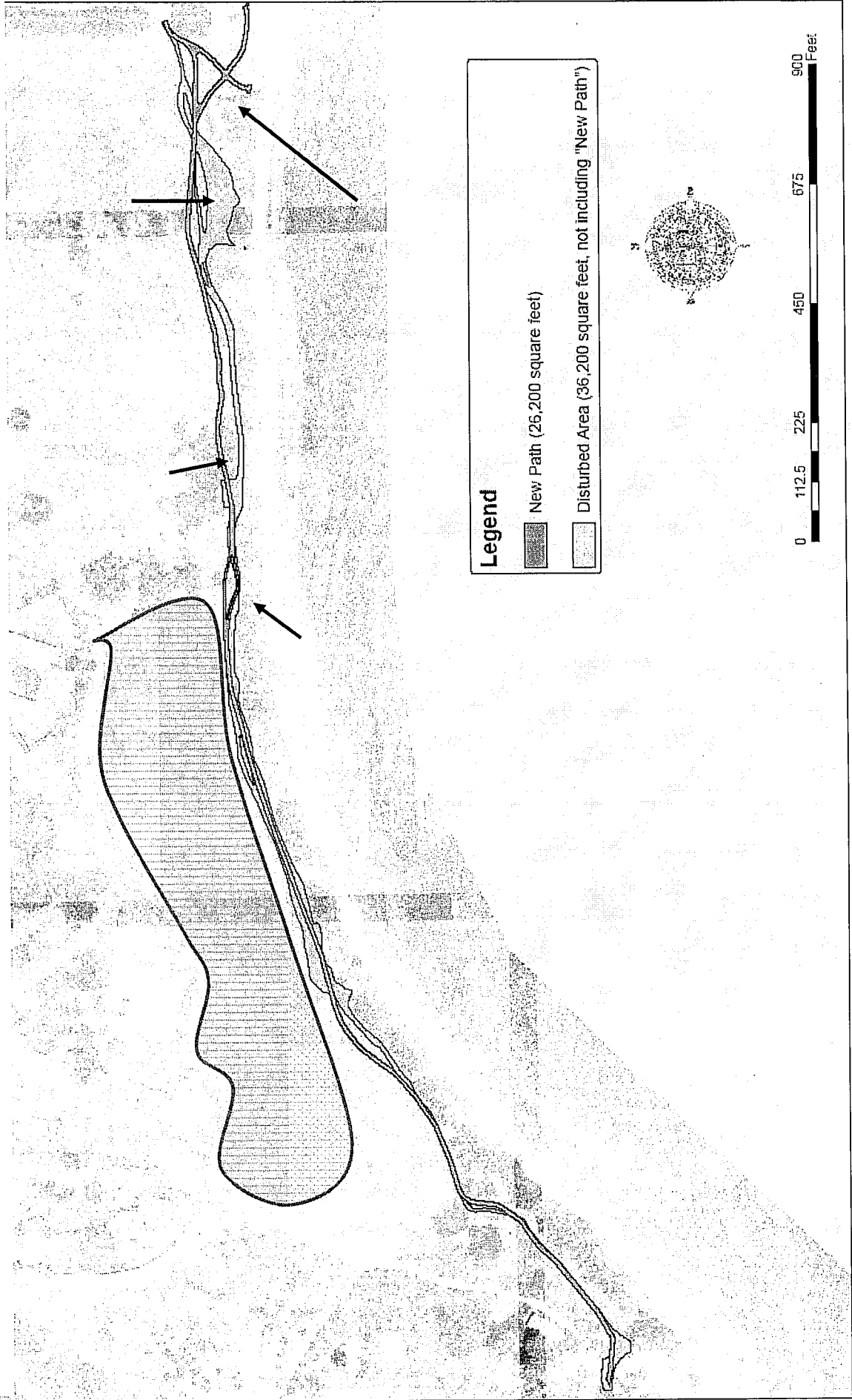


ILLUSTRATIVE SITE PLAN
PARK HILL ESTATES v.2 October 12, 2011
 For the Oak Creek Co.

DAVID R. BLACK & ASSOCIATES
 ARCHITECTS
 10000 N. CENTRAL EXPRESSWAY, SUITE 100
 DALLAS, TEXAS 75243
 TEL: 972.382.1000
 FAX: 972.382.1001
 WWW.DRBLACK.COM



Proposed UCSB, West Campus Bluffs Up to 6 acre native Purple Needle Grass restoration area. Green area along restored trail.



Project Concessions and Adjustments
Proposed for
Park Hill Estates v.2
September 8, 2011

The pending application is to revise a prior approval for infill housing to deal with the affordable housing condition via a bonus density and with the grasslands via off site restoration. Since the time of the MND hearing we have had, over a 6 week time, several meetings with neighbors to hear their concerns, here are things we have done to address neighbor's specific concerns ¹

- Eliminate two lots and homes reducing it to 15 market rate homes and 1 affordable from 17 market rate units and 1 affordable.
- This fewer lots inherently means the remaining lots are larger as that space is reallocated among lots.
- Shifted the affordable unit to lot 3, further inside the project, adjacent to the "not a part" lot... Flip flopping lots 2 and 3. This per neighbor suggestion.
- Increased the setbacks between homes to be 40 ft. (variable as to its allocation between the two lots), except between lots 3(affordable) as to its adjacent lots.
- Reoriented lots so they are not so uniformly set up on a grid like pattern
- Contacted County Parks about the Tuckers Grove Emergency access to confirm it availability a trial run night evacuation through it is possible but neighbors have not raised that anymore in our discussions.
- Met with Flowers and Associates to discuss fine tuning the building pads on lots 5, 11 and 12 and discussed the specific engineering requirements and solutions for those lots. Flowers discerned that the pads will redirect more water on site to the Park Hill detention basin than is the existing condition thus protecting the Jette lot to the north and the two adjacent lots to the west from natural run off more than the existing condition.
- Looked up the specifics of affordable housing conditions on another project² and drafted a proposed change to delay the affordable until after 10 market

¹ We recognize that it is virtually impossible to obtain full buy in by adjacent owners used to property being converted from open space to an infill project that is constant with applicable rules.

² See Supervisors action delaying date of building affordable in *Old Mill Run*, Orcutt.

There:

- o 6 affordable 54 market, 60 total homes.
- o Two Affordable to be built after 40 of 54 Market units (After 74%)
- o Four affordable after 45 of 54 market homes built (After 83%)
- o (TM 14,532, Supervisors Action Aug. 9, 2011).

rate units so the Inclusionary Housing update has time to finish its changes and the economics of the project are more known then.

- We spent time meeting with neighbors and their representative on our affordable options that start with 30% affordable- 6 on site affordable units and 18 units with compensating density.
- We wrote and testified to the Planning Commission on September 7, 2011 in the hearing on Inclusionary housing update concerning the lose-lose dilemma the affordable housing requirement creates , as well as the situation of this property specifically where in lieu fees have gone from \$95K to \$1.3 million while this has been periodically processed over 14 years. And the need for Inclusionary Housing and in Liu fee reform.
- Eliminated the 34 ft. easement between lots 4 and 5 in the compromise plan.
- Shown examples of interior curb cuts to lots, walking paths and parking areas for neighbors to see on a revised site plan
- Changed maximum building heights to 22 ft. (1 story) on lots 10 and 11.
- As the 2007 plan allowed 5500 sq. ft homes on all lots and neighbors want highest values possible, observing setbacks and height limits, we have added back two 5500 sq. foot lots on lot one and lot 15.
- As per out application Pennell road will be retained as part of the property and we will seek a quitclaim of 5 foot strip to clean up that illegal subdivision or seek recognition that it is an easement only to give it validity, and get us closer to 15 acres (14.97 acres). We identified three adjacent owners who could participate in lot line adjustment with Park Hill to get Park Hill to 15 acres (if necessary or appropriate) without adversely effecting their lot sizes.
- If there is no appeal of a Planning Commission approval of the project we will commit to Oak Creek Company will first show proposed plans for homes on the exterior lots (lots 1, 2, 4, 5, 7, 8, 9 & 10) to the closest neighbors before submitting plans to the County for review and input. If there is an appeal we will not so commit.

Jeff Nelson
Jason Nelson
Oak Creek Company
Sept 8, 2011

Park Hill Estates v.2 compared w/ other Approved Projects

PHE v.2 is the current project

PHE v.1 is the 2007 approved project for this property

La Romana is north of Park Hill approved, 1/3 built out

Vintage Ranch is a Project we completed in 2004

<u>Project:</u>	<u>PHE v.2</u>	<u>PHE v.1</u>	<u>La Romana</u>	<u>Vintage Ranch</u>
Useable acres*	14.4	11.7	16.5	6.9
Homes	16	12	24	12
Density	1.1	1.02	1.5	1.7
Gated?	No	No	Yes	Yes
Affordable?	Yes-1	No	No	No

*Note:

Bio preservation that makes land off limits to homeowners reduces useable acres.

Affordable means on-site affordable housing is included in the project.

Park Hill Estates v.2 has distinctly lower density than Vintage Ranch or La Romana

NELSON LAW FIRM
735 STATE STREET
SUITE 212
SANTA BARBARA, CALIFORNIA 93101

JEFFREY C. NELSON

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

September 2, 2011

Santa Barbara County
Planning Commission
123 E. Anapamu St.
Santa Barbara, CA 93101

**Re: September 7 hearing agenda item 1-
Inclusionary Housing Status Report**

Dear Chairman Valencia and Commissioners,

While staff will give you an update on the inclusionary housing program from the Staff's perspective, here is one from the trenches of someone trying to get new local housing approved.

I have represented many local projects over the last 25 years including many of the projects that provided some affordable housing.

Before the housing market collapsed, the inclusionary component seemed to be a necessary evil where you hoped the market rate units would subsidize that obligation.

The reality is that the forced inclusionary requirement is even worse than a "something for nothing" scheme. This inclusionary obligation serves as an active detriment to getting neighborhood buy-in to a project and creating a financially viable project. An example of this ironically is a project we are working on now that was supposed to be before your Commission today, Sept. 7, but is not because of endless dialog we are having with concerned neighbors (Park Hill Estates v.2).

This project on 14.95 acres started processing in 1997 at the end of the water moratorium. The owners were thwarted from 1972 by that. In-lieu fees for affordable were \$97,000 in 1997. Various iterations have been proposed over time including one in 2007 for 12 homes with an in-lieu fee at that time of \$784,000. Even though market values have dropped substantially since 2007, the in-lieu fee for this same project, if the map recorded now, is now calculated at \$1.1 million for 12 homes and \$1.3 million for 14 homes.

Alternatively, the inclusionary requirement for the property is building 6 affordable units in this area where property values are near and above \$2 million per house. Both of those options are frankly absurd. The remaining option is the state bonus density program, with one very low income rental and extra compensating market units.

The neighbors know nothing of inclusionary requirements when they gather emotional momentum, convinced that a new project like this being proposed is inconsistent with their neighborhood.

We have done extremely high quality projects before, but that does not overcome the neighbor belief that what is being proposed is a "Brazilian shanty town" not just the affordable unit, the whole project.

The County has told the California State Housing Agency that it is advancing affordable housing through its various programs. The truth is that it stands back and does nothing to defend or even process in a timely fashion actual projects that meet its affordable requirements. Staff merely stays free from the fray, delays action as long as possible while the dynamic between developer and neighbors takes place, then sticks its hand out at the end of the process and says "give me subsidized units or a million dollars for failing to build affordable units".

In 2004, the County substantially increased its inclusionary requirement from one where projects had to provide one of a range of affordable components to providing all 4 levels of affordable housing. The premise was that the marketplace would never provide these opportunities.

A point of reference as to the affordable percentage required is for that of redevelopment agencies. The extremely high County 30% affordable requirement (20% north county) contrasts markedly with those agencies, whose very existence is related to that objective; redevelopment agencies are required to build 15% of the units at affordable rates, and this does not apply to each project, but to the whole area.

In fact the market correction and very low interest rates have made housing affordability a reality. Moreover, new rentals and a lessened consumer imperative that "everyone must own a home" have created much more affordability than the County's policies ever would have.

People will not buy re-sale controlled homes at the bottom of the market when they have other opportunities that would give them the real upside if the market improves. Yet the County is charging about \$560,000 for each workforce or moderate unit that the County requires that a project does build and give away at a subsidized price. That is laughably unreal in the context of good faith private enterprise efforts to create new housing opportunities in an extremely challenging market.

Inclusionary housing requirements, those that are all *stick* and no *carrot*, may be soon a thing of the past. A case came out determining that an inclusionary fee was unlawful as new housing opportunities are not what cause the need for affordable housing; the fee is unrelated to the impact of the project on that public objective.. (BIA v. City of Patterson (2009) 171 Cal. App. 4th 886, See also California Mitigation Fee Act Gov. Code 66000 et seq.

Also a recent case from Santa Monica states that any challenge to an affordable requirement has to come on a project by project basis, not at the outset when a policy is adopted.

County PC
Inclusionary Housing
Sept. 2, 2011

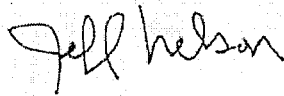
Looking beyond this jurisdiction, what is happening elsewhere in the housing world? First there is a resurgence of rental housing being proposed, funded and developed at high enough densities to justify it. This is a fundamental change in the housing world as *for-sale* housing attracted all the capital for a long period; that is reversing. Secondly, jurisdictions like the City of Santa Barbara are looking at much higher densities to create workforce priced housing, assuming it is density and unit size that lead to these affordable attributes, not inclusionary requirements.

The County has neither a factual or legal basis for imposing these inclusionary requirements on projects. While the County did a justification study before, it does not come close to withstanding scrutiny (2010 Housing Element Input)

At a recent California State Bar Real Estate Section conference on "Affordable Housing programs after the crash: What Next?" the consensus was that any inclusionary requirements were being worked out, project by project, on an ad hoc basis as public agencies are avoiding the definitive legal showdown that could end inclusionary housing statewide.

The inclusionary housing policy puts developers in a no-win situation politically and economically. You must understand this as you assess the future of this program and as you see actual housing projects emerge from its challenges to finally get to the Planning Commission.

Very truly yours,



Jeffrey C. Nelson

Jeffrey C. Nelson
State Bar No. 062255
735 State Street No 212
Santa Barbara Ca.

Telephone (805) 845-7710
Jeff@JeffNelsonLaw.com

**In the matter of:
The application for approval of a Vesting Tentative Map for Park Hill estates v.2
APN 059-290-041, Santa Barbara County, Ca,
10 VTM-00000-0001, The Oak Creek Company, applicant**

DECLARATION

1. The Oak Creek Company, applicant, has applied for development of 14.87 acres on the property known as APN 059-290-041 , with an application for a Vesting Tentative map pursuant to County of Santa Barbara laws and ordinances and the Subdivision Map Act and the State bonus Density Law. (“Park Hill Estates v.2” or “Development Project”)
2. I am a licensed attorney, agent for processing on the described project and President of the Oak Creek Company.
3. In response to the above application, which was filed April of 2010, the County of Santa Barbara Planning & Development Department held a hearing on a proposed Mitigated Negative Declaration on July 12, 2011, and received comments until July 18, 2011.
4. An issue raised at both the hearing and in written comments is the adequacy and availability of San Antonio Creek Road through Tuckers Grove as emergency access during a fire or other emergency to properties in the San Antonio Creek Road area.
5. San Antonio Creek Road used to run through Tuckers Grove Park before the County elected in 1974 to abandon the portion of the public road from the top of the park to Cathedral Oaks. (See Ex. 1).
6. The connection with the park is the most direct and closest emergency access for this neighborhood, considering it and the primary route which is Via Los Santos to the south west, then San Marcos Road to Cathedral Oaks..

7. The top of Tuckers Grove Park is 1800 ft. from its juncture with Via Los Santos. (See Ex. 2).
8. We are working on development of the 14.5 acres at San Antonio Creek Road and Via Los Santos.
9. As a point of reference, the park is adjacent to the neighborhoods above it; the north part of the park is 1800 ft. away (1/3 miles) from the junction of San Antonio Creek Rd. and Via los Santos. That distance is approximately the same distance as the width of the property subject to the relevant application (Park Hill Estates).
10. Tuckers Grove Park's address is a San Antonio Creek Road address, 805 San Antonio Creek Road.
11. I spoke with Sue Spencer of County Parks (805-568-2465) on August 1, 2011 concerning a perception by some neighbors in the San Antonio Creek Road area that they cannot rely on the emergency access through Tuckers Grove in a time of emergency.
12. She stated as follows: the main gate by Cathedral Oaks Rd. that is open 8:00 until nightfall, and closed at night, is specifically designed to be pushed open from inside the park if it is closed at night. They have had one demonstration for neighbors of the emergency access and its components early this year. The gate appears like it is locked but is only secured by a plastic tie. There are bumper pads at car bumper height on the gate so that a car does not get scratched by pushing it open.
13. As to the emergency access barriers or bollards at the north of the park where San Antonio Creek Road connects there are two elements. The first is plastic bollards that just bend over when a car goes over it. Two of the three of these have broken away as Sue believes kids on bikes come by and kick them.
14. These replaced metal bollards chained to their holes which existed in 2007 with first just plastic drive over bollards then wooden snap when driven over bollards.
15. The second element is four wooden sticks sticking up from their holes, some of which are fitted with a lock at the bottom that she says can easily be knocked over by a car if they have not been opened already.
16. On Aug, 2 they had yellow plastic Caution tape strung across them, which was not there a week earlier. Only one of the four was locked by a chain to its hole. By observation, one could drive around the wooden sticks and over the curb to avoid the sticks if they had not been removed. Pictures of the emergency exit and the white front gate for the Park at Cathedral Oaks are on Exhibit 3. The emergency

exit is fully paved though it may appear otherwise from pictures because of oak leaves on the paving from adjacent trees.

17. I said that when the park is closed and it is dark that they need to make it perfectly obvious that this emergency access is available and acceptable. She said that there is signage on San Antonio Creek road that states that it is an emergency access for fire only. There are two signs, they say:

Emergency Fire Exit Only
Do Not Stop or Park
Proceed Slowly through Breakaway Posts
Turn Right to Exit Park
(See Ex. 3)

18. She said they are perfectly willing to put on another demonstration for neighbors showing that it is completely accessible in times of emergency without any action by the park ranger. They did one such demonstration recently and can do so again.
19. She said that their issues on the bollards have been twofold. First, she believes kids bike down and kick the bollards and break them. Second, a property owner at the bottom of San Antonio Creek Road rents his property out and one renter was driving through the bollards into the park as well as dumping trash in the park. She said that was a onetime occurrence.
20. I told her it was important that neighbors understand and trust that the extremely close access through Tuckers Grove is available for them at any time of need in emergency.
21. The Park Ranger is Charles Rowan, whose cell number is 896-7043. I spoke with him on August 2nd. He has only been at Tuckers Grove for 3 months. He said that he would estimate 10-20 vehicles drive through the emergency access up or down San Antonio Creek Road per week. He has replaced broken wooden bollards 3 times as people will drive through and break two. Sometimes people remove the wood bollards and sometimes they avoid them by driving over the curb. He just put up the yellow caution tape as another attempt to discourage that traffic. He said even a trash recycling truck routinely goes through that route. He also confirmed what Sue said, that the front gate is held together by zip ties and that the Sherriff's department has pushed through it as a trial run.
22. I said it is imperative that neighbors above the Park trust that access will be available in the worst of conditions- a middle of the night evacuation. He said he understands that completely. He said they have two onsite park hosts that live there each night and are instructed in opening the emergency access in times of need and people can and do drive though the emergency access road and bollards now, even without an emergency.

23. I said I may have a follow up meeting with him onsite with interested neighbors. He said fine. In a follow up call on August 3, 2011 he said that one of his superiors had an onsite meeting with a group of neighbors about 2 ½ months ago , shortly after he came on, to show them how the emergency access worked. That would have been around mid May 2011.
24. I am informed and believe that was with the neighborhood group that has provided input on the Project and that the person who lead this tour was Regina Magid who has described herself to me as the self appointed "safety officer" for the San Antonio Creek neighborhood, including the SACR.
25. This route is only 1/3 of a mile from the junction of San Antonio Creek Road and Via Los Santos and directly linked to the neighborhood north of Tuckers Grove, much closer than the primary road route out of the neighborhood to the south.
26. It appears Parks has tried different solutions to achieve the goal of making sure this emergency access works as intended, including holding neighborhood demonstrations. We have offered to neighbors to have Roads or Parks funds from this project be first spent on addressing any more fine tuning required on this emergency access. In any case the fact is that it operates as a functioning emergency access now in the worst case that the Park Ranger or Fire Dept don't open the front gate at night or remove the wood poles in an emergency. The onsite Park hosts who live at Tuckers Grove are instructed to open the emergency access components in a time of emergency so all of the rest of the discussion on driving through bollards and opening the front gate by breaking the zip ties only relates to the extremely remote likelihood of there being emergency evacuation conditions without the park hosts knowing about that.
27. As to the response to the MND, one neighbor, Chris O'Connor testified in writing that he and his family used this access in the last fire evacuation yet raised issues about its adequacy. (Ltr. of July 18, 2011). He and his wife have opposed the development of this property from the outset of our application and interaction with neighbors. Their house, a two story home looks out on the Park Hill property, from 450 feet to the north. Many of the most proximate neighbors to the property, who currently enjoy views over this undeveloped property, provided input to the MND and were also the people who expressed concern with emergency access through Tuckers Grove.
28. The attorneys for SACR stated in a letter in response to the draft Mitigated ND that the Tuckers Grove emergency access is inadequate as it is "(U)npaved, poorly graded and not maintained, it is in no condition to be used as emergency access. Reliance on this road for emergency access is not supported by factual evidence." (Letter to County from Graham Lyons , July 18, 2011).
29. Based on SACR having an on-site tour of the fully paved and functional emergency access and one of its member having testified he used it in the last fire

evacuation, these statements on behalf of SACR are false, materially false, made with the knowledge by SACR that they were false and said statements were made with the intent to damage OCC by thwarting the Development Project.

30. This 14.83 acre property already provides a private road for primary egress for six parcels to the north, Pennell Road, and the proposed project includes roads through the property that can be used by neighbors to aid in emergency access to go to the public roads to the east and south. It will also provide 4 new fire hydrants.
31. The President of the SACR, Danny Vickers, suggested we remove one more emergency egress attribute of the development proposal, an easement between lots 4 & 5 to Pennell Rd. and we agreed to that in concept as to a settlement plan that would reduce the number of housing units from 18 (1.2 dwelling units per acre) to 16 (1.07 dwelling units per acre) if SACR and neighbors would accept the compromise project. That proposal is still pending.
32. Based on the data base of Ex. 4, the number of existing and future homes and lots that are in the area that have access to the road network, north south and west, is, with and without development of the Park Hill property, as follows:
 - A) Total housing units and lots in the area without the Park Hill project
284 (277 existing +Castro 4 + Handerhan 3)
+ 16 Park Hill Estates lots= 300, if with 18 Park Hill Estates lots it is 302.
 - B.) The incremental increase in the number of homes and lots in the area is calculated as follows: 16 PHE units divided by 300 total units= a 5.3% increase . If the number of final lots is 18, then 18 PHE units divided by 302= a 5.9% increase. 16- 18 new lots will represent a 5.3% to 5.9% increase in traffic over the whole neighborhood as it relates to utilization of the road network in the area, including both primary and emergency access.
33. The Park Hill Property is still owned by DHL Realty, with whom OCC is working. They bought the property in 1971. Their property is on San Antonio Creek Road, as is Tuckers Grove. Three years after their purchase, in 1974, the County of Santa Barbara abandoned the public road connection of their property to Cathedral Oaks road less than ½ mile to the south on the basis that other road connections were adequate. (See Exhibit 1).
34. DHL was thwarted for their intended development of the property by the imposition of the Goleta Water Moratorium from 1972 through 1997 when that moratorium ended. Lou Cohen, lead owner, then applied for a 14 unit development, with the response letter attached as exhibit 5. He and his advisors worked for years to satisfy the conditions required of the project, until his death in 2004. (Ltr. To Tuttle from Steve Zeluck, July 25, 2011)

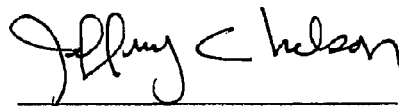
35. Thereafter the family resumed his efforts, having a project approved in 2007 of 12 lots. That project applied for 12 lots as it was constrained by native grassland patches on the property that the County required be replanted, even though they are not protected plants that are protected from removal by federal and state laws the protect against taking of plants that are rare or endangered. The property did not sell thereafter, the market turned markedly worse and then DHL entered into an agreement with OCC that gave OCC authority to file for a project it felt was economically viable. The grasslands issue, long the leading source of difficulty for this project has been satisfied by finding an off-site location at the West Campus Bluffs near Coal Oil Point ecologic reserve. (See Administrative Record)
36. Only after that grasslands issue had been resolved did the County P&D ask the applicant to respond to the adequacy of the emergency access, which was first raised by neighbors in the 2006- 2007 project hearing. The project for 12 homes was approved notwithstanding neighbors raising that issue at that time.
37. In fact the emergency access has been improved since 2007, as at that time metal bollards affixed by chains had to be manually removed to allow through traffic. Those were removed after 2007 in favor of the current breakaway elements described above.
38. Neighbors testified in the MND hearing that an unfavorable variable in emergency evacuation is the presence of horses which makes evacuation more challenging. Other neighbors testified that the Development Project is designed to not accommodate horses on lots, as the 2007 plan would have with 12 lots. Both are true to my personal experience, and it is true that designing lots to not accommodate horses in the proposed Development Plan improves emergency evacuation for the property and the area in that regard.
39. The MND states that the history of use of the property includes being leased for horse grazing in the initial years of the current owners, DHL Realty Co.'s, ownership, 1971-1975. I am informed and believe a multitude of horses on the property, if it remains undeveloped, will present greater emergency access challenges than new homes would present.
40. Emergency access was not identified on the list of issues for the project either in the County's response to the 1997 application (Ex.5) or the response to the OCC application in 2010 (Tuttle Ltr. To Nelson June 2, 2010, Administrative Record)
41. The County made a finding in 2007 that the emergency access was adequate for the 12 lot project (Administrative Record) 12 lots added to the 284 existing and planned homes represented an increase of 4.4%. A project now of 16 or 18 lots will only add an incremental 1.4% for a 16 lot project or 2.1% over the previously approved project.

I declare under penalty of perjury that under the laws of the State of California that the foregoing is true and correct.

Date: August 5, 2011

Jeffrey C. Nelson

Name



Signature of Declarant

See Attachments 1 through 5.

Exhibit 1

ORIGINAL

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

3 IN THE MATTER OF THE PROPOSED) 4 ABANDONMENT OF A PORTION OF A) 5 CREEK ROAD, KNOWN AS SAN ANTONIO) 6 CREEK ROAD IN THE SECOND SUPER-) 7 VISORIAL DISTRICT.)	RESOLUTION NO. 74-841 RESOLUTION AND NOTICE OF INTENTION TO ABANDON A PORTION OF A COUNTY ROAD.
---	--

WHEREAS, the hereinafter described portion of a County Road in the Second Supervisorial District of the County of Santa Barbara, State of California, is unnecessary for present and prospective public use as a County Road; and

WHEREAS, the Board of Supervisors finds that, pursuant to Section 5079 of the Public Resources Code, said hereinafter described portion of a County Road is not useful as a bicycle path or route; and

WHEREAS, it is proposed that the portion of County Road described in said resolution will be unnecessary for present or prospective public use upon completion of construction of a highway safety project on Cathedral Oaks Road which will include the installation of automatic traffic signals at its intersection with the north leg of San Marcos Road; and

WHEREAS, the Board of Supervisors of the County of Santa Barbara intends to abandon said hereinafter described portion of a County Road;

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED AS FOLLOWS:

1. That the Board of Supervisors of the County of Santa Barbara, pursuant to Section 956.8 of the Streets and Highways Code, hereby declares its intention to abandon the following portion of a County Road known as San Antonio Creek Road, in the Second Supervisorial District, provided that any existing rights of way to maintain, alter, replace, repair and remove all public utilities located in, on, under and over said County Road are hereby reserved and excepted from said abandonment:

All those portions of that certain present travelled way known as San Antonio Creek Road, lying between its intersection with Cathedral Oaks Road and the westerly boundary, together with its southerly prolongation, of that parcel of land described in the Deed to J. Merrill Kneeland, et ux, recorded December 8, 1972, as Instrument Number 48166, in Book 2434, Page 455 of Official Records, in the Santa Barbara County Recorder's Office.

74-841

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

2. That Monday, the 2d day of December 1974 , at 2:00 P. M. is hereby fixed as the time, and the meeting room of the Board of Supervisors in the County Administration Building 105 East Anapamu Street, Santa Barbara California, is hereby fixed as the place for the hearing of this Resolution, at which time and place any party may appear and be heard relative to said proposed abandonment.

3. That the Clerk of this Board is hereby directed to give notice of said hearing to all freeholders in the Second Supervisorial District of the County of Santa Barbara by publication of this Resolution in the

a newspaper of general circulation published in the County of Santa Barbara for at least two successive weeks prior to said day fixed for said hearing, and that similar notices be posted conspicuously along the lines of said County Road proposed to be abandoned.

Passed and adopted by the Board of Supervisors of the County of Santa Barbara, State of California, this 28th day of October , 1974 , by the following vote:

- AYES: Frank J. Frost, James M. Slater, Francis H. Beattie, Curtis Tunnell, and Charles F. Catterlin
- NOES: None
- ABSENT: None

Charles F. Catterlin
Chairman, Board of Supervisors

ATTEST:
HOWARD C. MENZEL, County Clerk

By: *Gene Gilbert*
Deputy Clerk

FILED
10-28-74
HOWARD C. MENZEL, Clerk
Gene Gilbert
Deputy Clerk

Exhibit 2



© 2011 Google

© 2011 Europa Technologies
DataSIO, NOAA, U.S. Navy, NGA, GEBCO
© 2011 Google
Image © 2011 GeoEye

© 2011 Google

Exhibit 3

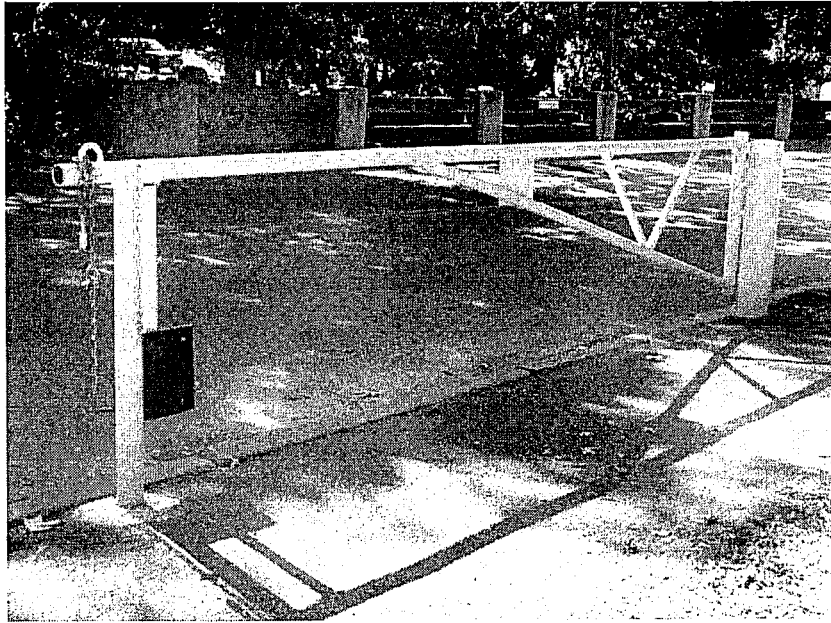






Exhibit 4

Park Hill Estates v.2

Lot sizes- San Antonio Creek Neighborhood

Includes every residential lot from the San Antonio Creek Neighborhood

Boudaries: West: San Marcos Rd., East: San Antonio Canyon Park, North: HWY 154, South: Cathedral Oaks Rd.

Note: All information from County Assessors Records

Assessors Parcel Number		Lot	
	book-pg	parcel	Acre
North	059-030-	35	1.00
	059-030-	19	1.00
	059-030-	20	1.00
	059-030-	21	1.00
	059-030-	32	1.00
	059-030-	31	1.00
	059-030-	30	1.03
	059-030-	29	1.00
	059-030-	28	1.00
	059-030-	27	1.00
	059-030-	26	1.08
	059-030-	37	1.12
	059-030-	38	1.60
	059-030-	23	1.52
	059-030-	41	1.05
	059-030-	42	1.00
	059-030-	14	1.27
	059-030-	15	1.24
	059-030-	39	1.15
	059-030-	17	1.34
	059-030-	18	1.28
	059-030-	13	0.94
	059-030-	12	0.92
	059-030-	11	0.96
	059-030-	10	1.06
	059-030-	9	1.18
	059-030-	8	1.96
	059-030-	7	1.97
	059-030-	6	1.92
	059-030-	5	1.00
	059-030-	4	1.01
	059-030-	3	0.95
	059-030-	2	0.97
	059-030-	1	1.01
	059-290-	40	0.73
	059-290-	30	1.00
	059-460-	1	0.55
	059-460-	2	0.47
	059-460-	3	0.46

	059-460-4	0.48
	059-460-5	0.52
	059-460-6	0.57
	059-460-7	0.49
	059-460-8	0.54
	059-460-9	0.64
	059-460-10	0.46
	059-460-11	0.51
	059-460-12	0.52
	059-460-13	0.54
	059-460-14	0.65
	059-460-15	0.47
	059-460-16	0.61
	059-460-17	0.54
	059-460-18	0.55
	059-460-19	0.81
	059-460-20	0.70
	059-460-21	0.56
	059-460-22	0.68
	059-460-23	0.59
	059-460-24	0.61
	153-232-1	0.73
	153-232-2	0.85
	153-232-3	1.00
	153-232-4	0.90
	153-232-5	0.71
	153-233-1	0.77
	153-233-2	0.91
	153-233-3	0.85
	153-233-4	0.78
	153-233-5	0.70
	153-233-6	0.73
	153-231-1	1.10
	153-231-2	1.15
	153-231-3	1.10
	153-231-4	1.10
	153-231-5	1.22
	153-231-6	1.35
	153-231-7	1.33
	153-231-8	0.69
	153-231-9	1.00
	153-234-1	0.69
	153-234-2	1.00
	153-234-3	1.00
	153-234-4	1.03
	153-234-5	1.01
	153-234-6	0.95

	153-234-	7	0.82		
	153-234-	11	1.05		
	153-234-	13	0.77		
	153-234-	15	0.65		
	153-234-	16	0.85		
	153-234-	17	1.04		
	153-234-	18	1.04		
	153-234-	19	0.84		
	153-234-	22	1.00		
	153-234-	24	1.10		
	059-010-	15	1.50		
	059-010-	16	1.00		
	059-010-	20	1.00		
	059-010-	21	1.00		
	059-010-	60	1.00		
	059-010-	61	1.18		
	059-010-	62	1.02		
	059-010-	82	1.00		
	059-010-	83	1.00		
	059-010-	91	0.90		
	059-440-	2	1.51		
	059-440-	6	2.12		
	059-440-	23	1.04		
	059-440-	7	0.87		
	059-440-	8	1.00		
	059-440-	10	1.10		
	059-440-	11	1.55		
	059-440-	22	0.92		
	059-440-	15	1.00		
	059-440-	16	1.00		
	059-440-	24	1.59		
	059-440-	25	0.88		
	059-440-	26	0.81		
	059-440-	27	1.00	Avg.	1.15
				Median	1.00
East	059-290-	22	0.51		
	059-290-	18	0.53		
	059-290-	17	0.51		
	059-290-	16	0.51		
	059-290-	37	0.64		
	059-290-	39	0.87		
	059-290-	1	0.55		
	059-290-	15	0.52		
	059-290-	14	0.51		
	059-290-	13	0.69		
	059-290-	10	0.59		
	059-290-	9	0.51		

	059-290-8	0.52		
	059-290-43	1		
	059-290-32	0.51		
	059-290-23	0.52		
	059-290-33	0.49		
	059-290-24	0.53		
	059-290-27	0.56		
	059-290-26	0.51		
	059-290-38	0.57		
	059-290-5	0.59		
	059-290-6	0.75		
	059-290-7	0.81		
	059-290-11	0.82		
	059-290-19	0.56		
	059-290-20	0.55		
	059-290-21	0.59		
	059-290-25	0.65		
	059-290-28	0.62		
	059-290-29	0.61		
	059-290-30	0.52		
	059-290-31	0.54		
	059-290-34	0.49		
	059-290-44	0.81		
	059-290-45	0.76		
	059-290-46	1.01		
	059-290-47	1.04	Avg.	0.63
			Median	0.56
South	067-100-16	0.78		
	067-100-17	0.77		
	067-100-18	0.76		
	067-100-19	0.77		
	067-100-3	0.36		
	067-100-5	0.32		
	067-100-4	0.60		
	067-100-6	0.32		
	067-100-14	1.00		
	067-100-15	1.42		
	067-100-28	1.06		
	067-100-29	1.00		
	067-100-20	1.00		
	067-100-21	1.00		
	067-100-22	1.00		
	067-100-31	1.00		
	067-100-23	0.94		
	067-100-25	1.00		
	067-100-30	1.10		
	067-270-1	0.11		

	067-270-	2	1.05
	067-270-	3	0.07
	067-270-	4	1.28
	067-270-	5	0.07
	067-270-	6	0.71
	067-270-	7	0.7
	067-270-	8	0.76
	067-270-	9	0.8
	067-270-	10	0.79
	067-270-	11	0.72
	067-270-	12	0.69
	067-270-	13	0.65
	067-270-	14	0.71
	067-270-	15	1.00
	067-270-	16	0.62
	067-270-	17	0.65
	067-270-	18	0.80
	067-270-	19	0.75
	067-270-	20	0.83
	067-270-	21	0.80
	067-270-	22	0.76
	067-270-	23	0.77
	067-270-	24	0.58
	067-270-	25	0.77
	067-270-	26	0.67
	067-270-	27	0.69
	067-270-	28	0.69
	067-270-	29	0.70
	067-270-	30	0.66
	067-270-	31	0.75
	067-270-	32	0.63
	067-270-	33	0.92
	067-270-	34	0.65
	067-270-	35	0.71
	067-270-	36	0.68
	067-270-	37	1.00
	067-270-	38	0.71
	067-270-	39	0.83
	067-270-	40	0.72
	067-270-	41	0.71
	067-270-	42	0.65
	067-270-	43	0.77
	067-270-	44	0.90
	067-270-	46	0.70
	067-270-	47	0.84
	067-270-	48	0.83
	067-270-	49	0.83

	067-270-	50	0.81		
	067-270-	51	0.78		
	067-270-	52	0.78		
	067-270-	54	1.00		
	067-270-	55	1.06	Avg.	0.77
				Median	0.77
West	067-430-	1	0.58		
	067-430-	2	0.58		
	067-430-	3	0.6		
	067-430-	4	0.7		
	067-430-	5	0.63		
	067-430-	6	0.64		
	067-430-	7	2.2		
	067-430-	8	1.2		
	067-430-	9	1.2		
	067-430-	10	1.00		
	067-430-	11	1.00		
	067-430-	12	1.00		
	067-430-	13	1.10		
	067-430-	14	1.10		
	067-430-	15	1.30		
	067-430-	16	1.30		
	067-430-	17	1.60		
	067-430-	18	1.60		
	067-430-	19	1.90		
	067-430-	20	1.0		
	067-430-	21	0.84		
	067-430-	22	0.87		
	067-430-	23	0.72		
	067-430-	24	0.60		
	067-430-	25	0.57		
	067-430-	26	0.62		
	067-430-	27	0.80		
	067-430-	28	0.73		
	067-430-	29	0.71		
	067-430-	30	0.64		
	067-430-	31	1.00		
	067-430-	32	0.74		
	067-430-	33	0.59		
	067-430-	34	0.67		
	067-302-	1	0.50		
	067-302-	2	0.50		
	067-302-	3	0.50		
	067-302-	4	0.50		
	067-302-	5	0.50		
	067-302-	6	0.23		
	067-302-	7	0.31		

	067-302-	8	0.50		
	067-302-	9	0.40		
	067-302-	10	0.40		
	067-302-	11	0.40		
	067-302-	12	0.40		
	067-302-	13	0.37	Avg.	0.81
				Median	0.67
Total		277			
Lots 1+ acre		98			
% lots 1+ acre		35.4%			

Avg.	0.84
Median	0.80

Exhibit 5



Case # 12
County of Santa Barbara
Planning and Development

John Patton, Director

July 29, 1997

Raymond Appleton
Permit Planners, Inc.
617 Garden Street
Santa Barbara, CA 93101

Re: Pre-Application for DHL Realty Subdivision, 97-PA-004

Dear Mr. Appleton:

Thank you for attending the pre-application meeting held on July 18, 1997 regarding your proposal, 97-PA-004. This letter provides a summary the items discussed at the meeting.

Attendees: Raymond Appleton, Permit Planners, Inc.
Kathleen Kennedy, Permit Planners, Inc.
Lou Zeluck, DHL Realty Co.
Steve Foley, Planner, Comprehensive Planning Division
Jackie Campbell, Planner, Development Review Division

Project Description: The proposed project is a fourteen lot subdivision with all lots meeting the one acre minimum zoning requirement. No structures are proposed as part of the development; the subdivision would be lot sales only. An existing detention basin would remain on site. Access would be provided from Via Los Santos and a new road proposed as part of the subdivision. Water would be provided by the Goleta Water District with sewage disposal by the Goleta Sanitary District. Fire protection would be provided by the Santa Barbara County Fire Department.

The following information summarizes the main issues discussed at the meeting:

I. DEVELOPMENT REVIEW

A. Zoning Requirements

The project site is zoned I-E-1 (Single Family Residential, one acre minimum parcel size) under Article III of the County Code Zoning Ordinance. The purpose and intent of this zone district is as follows:

"to reserve appropriately located areas for family living at a reasonable range of population densities consistent with sound standards of public health, welfare, and safety. It is the intent of this zone district to promote a suitable environment for family life."

July 29, 1997

Page 2

The maximum height for structures is limited to 35 feet (as measured to the highest point of roof) as specified by the zone district. As no structural plans have been provided, please be advised that all proposed structures and parking areas will be required to meet the setbacks and minimum distance between buildings specified in the E-1 zone district regulations. A copy of the E-1 zone district requirements is attached to this letter so that you may ensure that the project submittal can conform to the district requirements. These regulations require the provision of two parking spaces per single family dwelling.

B. Processing

Pursuant to the County's subdivision regulations codified in County Code Chapter 21, a Tentative Tract Map is required for divisions of land creating more than four parcels. The proposed subdivision is subject to this requirement. A formal Tentative Tract Map application will need to be submitted to Planning and Development to initiate processing. After submittal, the application will be reviewed to determine if additional information is necessary for processing. A fee estimate would also be prepared and a deposit to cover estimated processing costs would be required before your application is determined to be complete. This fee would be in addition to the initial application review fee (ARE). See attached information regarding permit fees.

During the 30 days following your application submittal, the project will be reviewed by the Subdivision/Development Review Committee which is composed of various County departmental representatives who review the project and recommend conditions of approval to the decision makers which in this case would be the Planning Commission.

Once the application is determined to be complete, staff will begin an evaluation of the project pursuant to the California Environmental Quality Act (CEQA) and the Guidelines for Implementation of CEQA. To determine what environmental effects would result from the project, staff prepares an Initial Study (IS). The IS would identify potentially significant project impacts and mitigation measures to address them and would incorporate information included in the Environmental Impact Report (EIR) previously prepared for the Goleta Community Plan. If it is determined that potentially significant impacts may be reduced to less than significant levels through incorporation of proposed mitigation measures as part of the project (accepted by the applicant in writing), a Negative Declaration would be prepared and circulated for a 30-day public review period to surrounding property owners and interested persons. If any residual impacts (impacts which remain after implementation of proposed mitigation measures) may be significant, an EIR would be prepared. An EIR would be circulated for 45 days to allow for the public and other interested parties to comment on the analysis and mitigation measures presented in the document. An environmental hearing would also be held during the review period for an EIR or ND to provide an additional opportunity for the public to comment on the impact assessment.

After the close of the public comment period for the environmental document and other necessary reviews, staff would schedule the project for hearing before the Planning Commission and begin preparation of a staff report. The staff report would include recommendations to the decision makers, background information, a summary of relevant issues, and a detailed discussion of the project's consistency with applicable comprehensive plan policies and zoning ordinance standards.

The Planning Commission would consider your project at a noticed public hearing. The Commission's decision would become final ten calendar days from the date of the hearing, unless appealed to the Board of Supervisors. Pursuant to the Subdivision Map Act, the Planning Commission shall deny a tentative map if any of the following Subdivision Map Act findings can be made:

1. State Government Code §66473.1. *The design of the subdivision for which a tentative map is required pursuant to §66426 shall provide, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision.*
2. State Government Code §66473.5. *No local agency shall approve a tentative map, unless the legislative body finds that the proposed subdivision, together with the provisions for its design and improvement is consistent with the general plan or any specific plan.*
3. State Government Code §66474. *The following findings shall be cause for disapproval of a Tentative Parcel Map/Tract Map:*
 - 3.1 *The proposed map is not consistent with applicable general and specific plans.*
 - 3.2 *The design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.*
 - 3.3 *The site is not physically suitable for the type of development proposed.*
 - 3.4 *The site is not physically suited for the proposed density of development.*
 - 3.5 *The design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.*
 - 3.6 *The design of the subdivision or type of improvements is likely to cause serious public health problems.*
 - 3.7 *The design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.*
4. State Government Code §66474.6. *The governing body of any local agency shall determine whether discharge of waste from the proposed subdivision into an existing community sewer system would result in violation of existing requirements prescribed by a California Regional Water Quality Control Board.*

Staff estimates that action on your project by the Planning Commission would occur approximately six to eight months from the time the formal application is determined to be complete if an ND can be prepared for the project. After the Planning Commission (or Board of Supervisors if the project is appealed) takes final action on the project, you will need to obtain map clearance prior to initiating recordation through the County Surveyor's Office.

Once all final project conditions which must be satisfied prior to recordation have been satisfied, including payment of fees and posting of bonds, the map may be recorded. Upon submittal of the application for map clearance, the project would be reviewed to determine that all required fees have been paid and that all applicable conditions have been satisfied. If these criteria have been met, staff would clear the map to the Surveyor's office to commence the recordation process. Approved maps are valid for three years. However

this time period may be extended up to a maximum of five years total. Once the map has been recorded, individual lot sales may proceed.

The project site is located within the planning area of the Goleta Growth Management Ordinance (GGMO) and is therefore subject to the requirements of this Ordinance. The GGMO allows a maximum of 200 residential units annually within the Goleta area. The proposed project is subject to the provisions of this ordinance, including the competitive ranking system, with points assigned based upon the degree to which a project fulfills criteria set forth in the ordinance. The Planning Commission will adopt a competitive ranking point assignment for your project as part of its action.

II. ENVIRONMENTAL REVIEW

The project will require preparation of an environmental document which will utilize information included in the EIR prepared for the Goleta Community Plan in 1992. Staff has reviewed your pre-application submittal to determine potential project impacts. A brief discussion of critical impacts, submittal items which would assist P&D to analyze impacts, mitigation measures that would likely be placed on the project, and recommendations for features that may be incorporated into the project design in order to reduce impacts is provided below.

A. Geology/Soils

Impact to geology/soils would be addressed through application of a standard P&D condition that limits excavation and grading to the dry season (April 15th through November 1st) unless a Public Works approved erosion control plan is in place. The standard condition also requires reseeding of exposed cut or fill slopes. To assist P&D staff with analysis during Initial Study preparation, the application submittal should include a Grading/Drainage Plan which shows existing and proposed site contours. This plan should also include cut/fill quantities. All new development would be required to be set back a minimum of fifty feet from any active or potentially active fault on the site. This fault has been plotted in its general location but an accurate survey and geologic study to determine the exact location would be needed prior to finding the application complete.

B. Water Resources

Preliminary calculations would be obtained using water duty factors from the County's Thresholds and Guidelines Manual. You should also include a letter from the Goleta Water District indicating their intent to serve the proposed project. To assist staff in analyzing water resources impacts, please include 10-year historical use records for the existing or previous use of the site with the formal application. Additionally, the project should incorporate low flow plumbing fixtures, drought tolerant landscaping and low-flow irrigation.

C. Flooding & Drainage

The project will increase impervious surfaces which will cause an increase in stormwater runoff from the site. The application should include a description of the existing facility to which runoff would flow, as well as a determination by Flood Control regarding the ability of the existing system to accommodate project-

generated runoff. A Grading/Drainage plan which shows proposed flow lines and all proposed improvements such as drop inlets, energy dissipaters, swales, etc, should be submitted. Structures entering the creek shall be sited and designed to avoid riparian vegetation. A consultation with Flood Control District staff on the detention basin and its role in the property's drainage is recommended. Additional setbacks for structures near this basin may be required.

D. Traffic/Circulation

Traffic generation rates would be calculated at the ITE Manual standard rates for single family dwellings of 10 average daily trips (ADT) and 1 peak hour trip (PHT) per lot. Using this traffic generation rate, expect 140 ADT and 14 PHT for the project. Additional impacts could also occur as a result of turning movement hazards and sight distance issues created by the narrow and winding nature of the existing roads.

Also please be aware that you will be required to pay standard traffic mitigation fees assessed by the Public Works Department on all discretionary projects. Traffic fees would be determined by Public Works based upon the number of PHT generated by your project.

E. Air Quality

Based on the screening table in the County's Thresholds and Guidelines Manual and the estimated volume of traffic generated by the project, it is unlikely that the project would exceed the County's 25 pounds/day threshold for NO_x and ROC. Short-term impacts to air quality from grading activities can be mitigated through the use of standard dust control measures.

F. Archaeological/Ethnic/Historic Resources

Archaeological resources are known to exist in the project vicinity. A Phase I survey of the site would be required prior to finding the application complete. Additional studies may be required if resources are found on the site in order to determine appropriate mitigation measures. Potential impacts to archaeological resources would be addressed through application of P&D's standard mitigation measures that require work to be stopped or redirected if resources are encountered or require additional mitigation such as avoidance through project redesign.

G. Noise

Residential projects are considered noise sensitive uses and as such the project would be required to minimize noise impacts to residents of the surrounding neighborhood and future development on the project site. Buildout of the lots may cause the exceedance of County thresholds at sensitive receptors located within 1,600 feet of the site during construction activities. To mitigate this impact, standard conditions limiting the days and hours of construction would be required.

H. Public Facilities

Preliminary review indicates that the project site is located within the service area of the Goleta Sanitary District (GSD). Please include information from the GSD regarding the District's ability to serve the project.

A plan of the proposed sewer main extensions will be needed to address potential impacts from trenching and installation of these lines.

The project site is located in a high fire hazard area. The map will need to ensure that the minimum turn radius of 27.5 feet is provided to allow for fire truck access and that there is adequate access for the Fire Department in case of emergency.

I. Aesthetic/Visual Resources

Due to the visibility of the future structures, it will be important to provide visual buffers or architectural guidelines to guide the type and size of development within the subdivision. Architectural treatments (use of varied colors and patterns on exterior elevations, etc.) should be incorporated as part of the guidelines or CC&Rs to reduce the potential mass of the structures as viewed from surrounding roadways and residences. Any plantings proposed to be developed along with the subdivision should also be shown on a site plan and submitted with the application.

J. Biological Resources

The Goleta Community Plan EIR identified the riparian corridor and environmentally sensitive habitat area within the east branch of Maria Ygnacia Creek abutting the subject property. There is a potential for native grassland species on the site that should be investigated by a qualified biologist. The project should incorporate a design consistent with the many policies relative to biological resources identified in the Comprehensive Plan and the Goleta Community Plan (see Section III below). This may be accomplished through the use of building envelopes designated on the proposed lots.

III. COMPREHENSIVE PLANNING

A. Site Designation

The project site is designated Residential, one acre minimum parcel size. The purpose of this designation is to provide for residential development that will preserve the semi-rural character of the San Antonio Creek Area. The intent is to allow only development which will minimize additional depletion of constrained resources, services and infrastructure. Overlays adjacent to the property include ESH and Riparian Corridor.

B. Consistency with Plans and Policies

The following discussion provides a brief analysis of the project's potential inconsistencies with the major applicable policies from the Comprehensive Plan. Major policy issues of concern include visual compatibility of the project with the neighborhood and biological resources. Design issues related to archaeological constraints and geologic hazards have been previously discussed above. In order to approve a project, the decision makers must determine that it is consistent with all applicable policies of the Comprehensive Plan. Inconsistency with any applicable policy will result in a staff denial recommendation. Please consider the following applicable policies in the planning and design of your project:

Land Use Element

Hillside and Watershed Protection Policy 1: *Plans for development shall minimize cut and fill operations. Plans requiring excessive cutting and filling may be denied if it is determined that the development could be carried out with less alteration of the natural terrain.*

Hillside and Watershed Protection Policy 2: *All development shall be designed to fit the site topography, soils, geology, hydrology, and other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited to development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.*

Hillside and Watershed Protection Policy 3: *For necessary grading operations on hillsides, the smallest practical area of land shall be exposed at any one time during development, and the length of exposure shall be kept to the shortest practicable amount of time. The clearing of land should be avoided during winter rainy season and all measures for removing sediments and stabilizing slopes should be in place before the beginning of the rainy season.*

Hillside and Watershed Protection Policy 5: *Temporary vegetation, seeding, mulching, or other suitable stabilization methods shall be used to protect soils subject to erosion that have been disturbed during grading or development. All cut and fill slopes shall be stabilized as rapidly as possible with planting of native grasses and shrubs, appropriate non-native plants, or with accepted landscaping practices.*

Hillside and Watershed Protection Policy 6: *Provisions shall be made to conduct surface water to storm drains or suitable watercourses to prevent erosion. Drainage devices shall be designed to accommodate increased runoff resulting from modified soil and surface conditions as a result of development. Water runoff shall be retained onsite whenever possible to facilitate groundwater recharge.*

These policies require minimization of cut and fill operations, runoff, erosion and sedimentation as well as the preservation of natural features. Consistency with these policies requires that future development of the proposed parcels incorporate measures providing protection to the natural terrain and features, as well as controlling erosion and associated sedimentation during construction activities.

Ecological Communities

Area/Community Goal b-2: *Alteration of topography, vegetation, and biological communities should be regulated in order to minimize the destruction of natural habitats.*

The mapped riparian corridor located in the northwest portion of the site requires building setbacks and restoration (see Goleta Plan Bio Policy below). If the setbacks hinder the site's development potential, lot reconfiguration to accommodate maximum buildout potential while respecting the corridor is warranted.

Visual Resources

Visual Resources Policy 3: *In areas designated as urban on the land use plan maps and in designated rural neighborhoods, new structures shall be in conformance with the scale and character of the existing community. Clustered development, varied circulation patterns, and diverse housing types shall be encouraged.*

Visual Resources Policy 5: *Utilities, including television, shall be placed underground in new development in accordance with the rules and regulations of the California Public Utilities Commission, except where cost of undergrounding would be so high as to deny service.*

As discussed at the pre-application meeting, neighborhood compatibility will invariably be a major issue. Your suggestions of neighborhood contact early in the process and the development of CC&Rs to be included in the project are encouraged.

Housing Element

Inclusionary Housing

The County shall require that a percentage (5, 10, 15, or 20%) of all units created in discretionary residential developments be affordable to very low, low, lower-moderate and upper-moderate income households as defined by this Housing Element. This policy applies to all residential developments of five units or greater including lot sale subdivisions, subdivisions of agriculturally-designated land not under Williamson Act contracts and conversions of five or more existing residential rental units and apartments to condominiums, stock cooperatives, and community apartments. The percentage of units required for each project shall be based on the target of affordable housing needs in each Housing Market Area as indicated in the Housing Element Implementation Guidelines. In certain cases, as outlined in the Guidelines, the inclusionary requirement may be satisfied through an in-lieu housing fee contribution or through off site mitigation. At least one incentive shall be provided to a developer when the inclusionary requirement is fulfilled on-site. Inclusionary projects shall comply with the requirements set forth in the Housing Element Implementation Guidelines and the Development Standards identified below.

Action 1.4.1: *Payment of in-lieu fees or providing affordable units off-site, or a combination of both, may be used to satisfy inclusionary requirements in the following instances:*

- a. Lot-sale subdivisions resulting in the creation of five or more lots.*
- b. Residential developments on properties designated or zoned at densities of 4.6 or fewer units per acre.*
- c. All projects within HMAs which have a maximum inclusionary requirement of 10% (targeted to low income) or less.*
- d. Projects which generate the need for 3 or fewer affordable units based on the maximum inclusionary requirement for the respective HMA.*

In-lieu Fees

Policy 1.5: *When the provision for required affordable housing is not being met on-site or off-site in accordance with Policy 1.4, the applicant may contribute in-lieu fees. Projects which propose a total of five to twelve (5-12) units or lots and have the option to pay in-lieu fees may pay a percentage of the maximum in-lieu fee for the applicable HMA. The percentage is based on twenty percent (20%) of the maximum in-lieu fee at five units or lots, and increases at ten percent (10%) increments for each additional project unit or lot, (e.g. 90% of the maximum in-lieu fee at twelve units). The exception to this case are projects in the Montecito sub-area where the in-lieu fee established for that sub-area shall be paid in full for all projects of five or more units or lots. Projects which propose greater than 12 units or lots, and which have the option to pay in-lieu fees (see Housing Implementation Guidelines) must pay the in-lieu fees in full. In-lieu fees are based on the average difference between the development cost and the maximum affordable sales price adjusted for differences in land cost and market conditions in each Housing Market Area and the Montecito sub-area. The in-lieu fees shall be used for affordable housing, special needs facilities or financial assistance programs within the Housing Market Area where the fees were originally collected.*

Because of neighborhood compatibility issues, the in-lieu fee program would be the expected course of action for this project. Current in-lieu fees for South Coast Housing Market Area (HMA) 14 unit projects are \$95,077.50 (14 x 12.5% x \$54,330 = number of units x average affordable requirement range percentage x South Coast HMA land and development cost factor).

GOLETA COMMUNITY PLAN

Fire Protection

DevStd FIRE-GV-1.3: *Two routes of ingress and egress shall be required for any discretionary new development or subdivision of land unless the Fire Department waives the requirement.*

The project as submitted is potentially inconsistent with this standard. Project redesign is necessary to incorporate two access points. However, as noted, the County Fire Department may waive this requirement. Coordination with the Fire Department before project submittal is highly recommended.

Biological Habitats

Policy BIO-GV-2: *Environmentally Sensitive Habitat (ESH) areas and riparian corridors within the Goleta Planning Area shall be protected and, where feasible and appropriate, enhanced.*

DevStd BIO-GV-2.2: *New development within 100 feet of an Environmentally Sensitive Habitat (ESH) shall be required to include setbacks or undeveloped buffer zones from these habitats consistent with those detailed in specific habitat protection policies as part of the proposed development except where setbacks or buffer zones would preclude reasonable use of the parcel. In determining the location, width and extent of setbacks and buffer zones, the Goleta Biological Resources Map and other available data shall be used (e.g. maps, studies, or observations). If the project would result in potential disturbance to the habitat a*

restoration plan shall be required. When restoration is not feasible onsite, offsite restoration may be considered.

DevStd BIO-GV-2.4: Landscaping which includes exotic invasive species shall be prohibited in or near Environmentally Sensitive Habitat (ESH) areas, Riparian Corridors and appropriate buffers. Landscaping in ESH areas and appropriate buffers shall include compatible native species.

Policy BIO-GV-3: Development within areas designated as ESH or Riparian Corridor shall comply with the applicable habitat protection policies.

Policy BIO-GV-15: Significant biological communities shall not be fragmented into small non-viable pocket areas by development.

Policy BIO-GV-16: To the maximum extent feasible, "protected trees" shall be preserved. Protected trees are defined for the purposes of this policy as mature native trees that are healthy and structurally sound and have grown into the natural stature particular to the species.

DevStd BIO-GV-16.3: Where trees may be impacted by new development, a Tree Protection Plan may be required where either the project site contains native or other biologically valuable trees (e.g., oaks, willows, sycamores, cottonwoods, cypress, eucalyptus) or where such trees on adjacent properties have drip lines which reach onto the project site. The requirement for a Tree Protection Plan may be modified or deleted where it can be found that no trees (proposed to be retained) would be potentially damaged by the project activities.

Policy BIO-GV-17: Oak trees shall be protected to the maximum extent feasible. All land use development applications shall be processed in such a manner as to avoid damage to native oak trees. Regeneration of oak trees shall be encouraged.

Policy BIO-GV-21: The use of locally occurring native plants propagated from plants in close proximity to the sites to be revegetated in landscaping shall be encouraged, especially in parks, buffers adjacent to native habitats and in designated open space.

These biological protection policies are designed to save time and money by giving developers and staff maximum direction during the early stages of project design. The subject property's north western portion has been identified as Environmentally Sensitive Habitat (ESH). As a result, the proposed subdivision and any future development plans would need to assure that the biological resources of this area are preserved and enhanced in order to remain consistent with these policies.

The East Branch of Maria Ygnacia Creek riparian corridor is designated Environmentally Sensitive Habitat. In addition, the site contains riparian habitat associated with the creek branch.

To be consistent with the above policies, development should be sited to avoid and minimize disturbance to these resources. Development should be set back at least 50 feet from the creek. If the proposed development will drain into the creek, erosion control and filtering devices should be incorporated into the project description.

to avoid sedimentation and pollution of the creek. The amount of impervious surfaces should be minimized. It is recommended that a 50-foot setback from the top of bank of the creek and the native grasslands habitat be maintained. Restoration of any degraded portions of the riparian corridor vegetation is also recommended.

Geology, Topography and Soils

Policy GEO-GV-4: *Excessive grading for the sole purpose of creating or enhancing views shall not be permitted.*

DevStd GEO-GV-4.1: *New residential structures shall be limited to an average maximum height of 16 feet above finished grade where site preparation results in a fill 10 feet or greater in height.*

Based on the preliminary information provided, the proposed subdivision and identified cut and fill operations would be consistent with the policy and development standard identified above. However, incorporation of these requirements should be considered in future preparation of engineering work for the project in order to ensure project consistency.

I hope that the pre-application meeting and this follow-up information will assist you with your proposal. Please keep in mind that the analysis is based on preliminary information received, and may be subject to change depending on the timing of the application, additional information that becomes available, or changes to policies and regulations that may be in effect at that time. If you have any questions regarding the information in this letter, please contact me at (805) 568-2076 or Steve Foley at 568-3532.

Sincerely,



Jackie Campbell, Planner
Development Review Division

Encs: Article III, E-1 Zoning District Requirements
Fee Schedule (Questions and Answers)

Cc: Louis Zeluck, DHL Realty Co., 200 W. Mason St., SB, CA 93101
Dianne Meester, Supervising Planner, Development Review Division (w/o enclosures)
Steve Foley, Planner, Comprehensive Planning Division (w/o enclosures)
Case File (w/ enclosures)

LAGROUPDEV_REVWPPA197CASES17PA004PRE_APPLET

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

October 21, 2011

Kevin Ready
Santa Barbara County Counsel
123 E. Anapamu St.
Santa Barbara, CA 93101

via e mail

Re: 5 ft. strip- Park Hill Estates V.2

Kevin:

This is a follow up to our letter of February 19, 2011 on this issue. That letter presented some of the background.

County planners called me asking that we address this issue again. Here are some additional thoughts, suggestions and information concerning dynamics on the project as they relate to this issue.

To address neighbor concerns, we have proposed a compromise plan that subdivides the project into 15 market rate lots and 1 lot for an affordable unit. The County's inclusionary requirements include other undesirable alternatives including 6 onsite affordable units. We revised the project to delete two additional market units which we were entitled to under the State Bonus Density law, thus reducing density and making lots bigger.

Part of the discussion with neighbors was that the County will be revising its in-lieu fees in the future. It is possible that we would be in a position to apply for a modification of 15 market rate homes on 15 acres with an in-lieu or offsite affordable treatment. This will not occur before the hearings on this project but could in the future.

In 2006 and 2007, the then property representative and owners to the north and west of Pennell Road, who share the agreement, had worked out an agreement where the Jette's would quit claim the 5 ft. strip and then acquire the whole road in a separate deed.

The only way we can achieve 15 acres on this property is to 1) continue to own Pennell Road which has always been a part of this property, 2) "reacquire" the 5 ft. strip parcel and 3) add about 3/100 of an acre via a lot line adjustment with some nearby property.

Park Hill
5 foot strip
October 21, 2011

This property becomes 14.97 acres when the 5 ft. strip once again becomes a part of the Park Hill property.

After we discussed this with neighbors, I talked to Bob Flowers of Flowers and Associates concerning the 5 ft. strip. I said if that was clearly an illegal subdivision, which everyone acknowledges, why would we show it on this map? Why acknowledge an illegal subdivision on a further recording? If it is known to be illegal why has the County never done anything about it? ¹ What if it is really just an easement not a deed of land? Mr. Flowers suggested I talk to Surveyor Michael Emmons on this issue. Indeed I called Mr. Emmons on September 9, 2011 to discuss this and potential solutions. He did not call me back.

A threshold issue is whether the 1959 deed creating the 5 ft. strip actually conveyed a grant of title to that land or merely an easement. There are rules of interpretation where if one of two alternative interpretations makes a transfer valid, and the alternative interpretation would make the transfer illegal and invalid, that the interpretation that would give validity to the transfer should be chosen.

The grant itself refers to a water line to be in the strip. Only if the transfer is interpreted as an easement would it give it legal validity.

The history is that Goleta Water District errantly requested their water line be in deeded land rather than an easement. The incongruous fact is that the Pennell Rd. preexisting easement includes easement for utilities, so this added nothing to providing a GWD water line. An easement to Jettes for public utilities is shown as having been recorded January 12, 1959, (Instrument no. 776, book 1585, page 118) this was a month before the 5 ft' strip deed.

You expressed an interest in clearing this issue up in the 2007 hearings.

Perhaps the most logical action to take now is to have Flowers modify their Vesting Tentative Subdivision Map to delete the 5 ft. strip plus the "parcel" that is shown as Pennell Road.

This would leave those properties in their current status and not do any new "confirmation" of the 5 ft. strip indeed being a parcel. While neither the 5 ft. strip nor Pennell Road are necessary for the subdivision itself; the treatment of that area will be material if the Jette's come forward with proposals for their own property.

¹ See Government Code 66499.36; Civil Code 1550, 1667,

Park Hill
5 foot strip
October 21, 2011

A second method of resolving this issue, short term, could be for the Jette's to authorize the recordation of the quit claim deed to the 5 ft. strip they deposited with you. (Copy attached)

We have consistently tried to address this issue from the beginning including an email to Alex Tuttle on August 19, 2010, meetings with the Pennell easement holders in October 2010, and my earlier letter to you. We have not pushed the issue of resolving this issue but it becomes more material to us if we indeed seek to make the property 15 acres, which several neighbors favor.

In any case, there is no justification for adversely impacting our subdivision proposal for the property which is in process as Park Hill Estates v.2.

I'm willing to meet with you and such other parties that may wish to meet on this as I expressed in my letter seven months ago. I'm sending copies to the parties listed below for their information.

Thank you,

Jeff Nelson

Jeffrey C. Nelson

Cc: Michael Emmons, Surveyor
Alex Tuttle, P&D
Chuck and Meg Jette
Bob Flowers, Flowers and Associates
(All via e mail)



County of Santa Barbara Planning and Development

Glenn S. Russell, Ph.D., Director

Dianne Black, Director of Development Services

Jeffrey S. Hunt, Director of Long Range Planning

October 18, 2011

Jeffrey C. Nelson
Nelson Law Firm
735 State Street, Suite 212
Santa Barbara, CA 93101

RE: Park Hill Estates v.2, proposed infill housing project

Dear Mr. Nelson,

I am responding on behalf of the County Executive Officer Chandra Wallar to your letter of August 11, 2011, regarding Park Hill Estates v.2, a proposed infill housing project and the Cavaletto housing project, both located in the community of Goleta. Thank you for expressing your concerns. Please know that I take the issues you raise regarding the processing of the Park Hill Estate v.2 and Cavaletto very seriously.

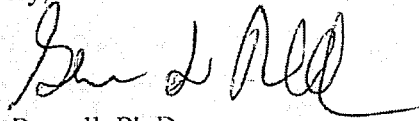
Park Hill v.2, appears to constitute a substantial change from Park Hill v.1 in respect to resource constraints and density: the native grassland resources, protected in this County through land use policy, have grown considerably since assessment and approval of v.1 and the residential density of the proposed project has increased 50%. These changes have necessitated P&D's review of the project under 11NGD-00000-000013. To date, staff and yourself, as applicant, have successfully negotiated a mutually agreeable solution to the native grassland issue. In respect to the density of the project, State Density Bonus Law does not obviate the need for the County to evaluate your project under CEQA. In responding to the publically circulated draft mitigated negative declaration (MND), members of the public questioned the document's adequacy in evaluating the impacts associated with emergency evacuation. CEQA mandates that the County respond to these concerns as well as the information you provided regarding the availability of emergency access.

I understand that you have now proposed a project of reduced density, greater setbacks and lower building heights on some lots to the head of the neighborhood opposition group. I encourage you to continue working with the neighborhood groups to achieve support for the project.

With respect to the Cavaletto project, since submittal of the current application for development on March 28, 2008, the case processing of this complex application has been standard and the project is now at the point where the EIR consultants, working with staff, have responded to public comments on the Draft EIR. As I understand it, the project is projected to be presented to the County Planning Commission on November 2, 2011 with a staff recommendation for approval of the project. I look forward to the successful completion of the process for this project.

I will be closely following the progress of both Park Hill v.2 and Cavaletto and look forward to the upcoming hearings. Please feel free to contact me with any further concerns.

Sincerely,



Glenn Russell, Ph.D.
Director
Planning & Development

C.: Chandra Wallar, CEO
Rachel Van Mullem, County Counsel
Dianne Black, Director of Development Review Services
Alex Tuttle, Planner Development Review Division

NELSON LAW FIRM
735 STATE STREET
SUITE 212
SANTA BARBARA, CALIFORNIA 93101

JEFFREY C. NELSON

Phone (805) 845-7710

Jeff@JeffNelsonLaw.com

February 10, 2011

Via E-Mail

Glenn Russell
Alex Tuttle
Anne Almy
Santa Barbara County
Planning and Development
123 E. Anapamu St.
Santa Barbara, CA 93101

Glenn, Alex and Anne:

This will follow up on our discussions on the grassland mitigation. Following our meeting prompted by my letter of December 17, 2010 and your follow up call, we have done the following:

- Met with Growing Solutions
- Talked with Mark De La Garza of Watershed Environmental
- Spoke with Claude Garciaceley of County Parks
- Reviewed several other local cases that had purple needle grass
- Called the California Native Grass Association
- Discussed this specific case with a top statewide CEQA law expert.

The issues are as follows with our input provided:

How much acreage do we have to mitigate?

The various fragmented stands above .25 acres total 2.46 acres in 2010.

This compares to 1.36 acres in 2005.

This current figure includes a stand that is smaller than .2 acres that is to the west of the "not a part" parcel, which is questionable to count for this property.

Alex Tuttle said maybe they will include all acreage, not just those above .2 acres. This is contrary to the position taken by the County on this same parcel in 2007 and could be evidence that the County is taking a position more adverse to development of this parcel because it included affordable housing and more infill housing than the project in 2007. This is the exact opposite of granting our requested incentive on grassland mitigation ratios. It is an act to make development of the homes including the affordable housing unit more difficult than it was in 2007.

How much planting will there be onsite?

We still believe the 1.62 acres of lot 19 is appropriate leaving the bottom of the basin for seasonal passive recreation.

Processing projects inherently includes balancing conflicting goals. The County takes the position that it needs more affordable housing and needs more park and recreation space. Hence the large fee for that. If offsite mitigation is required to proceed with processing, then it makes sense to continue having the bottom of lot 19 available for passive recreation.

There are many instances in which the County and other agencies have allowed human activity close to biological restoration. Examples of this include: More Mesa Flood Control parcel, More Mesa Parks Department Parcel, More Mesa trails through private More Mesa parcel, UCSB Coastal Bluffs restoration, Santa Barbara County Parks-Preserve at San Marcos, County and open space parcels in 6800 block of Del Playa, Del Sol Preserve- Isla Vista, Camino Corto Preserve, Isla Vista, UCSB Manzanita Village.

In all of these, the County or corresponding agencies could have fenced and separated native grasslands and other native elements from public contact so that climbing a fence was necessary to have contact with these plants. They have not done so. Incidentally such plants like purple needlegrass were never separated from human or animal contact in nature.

Just as public access has coexisted with plants in this list, it is reasonable to allow this onsite, subject to split rail fence divisions.

Mark De La Garza said whether this lot 19 includes the bottom of the basin or not will not change its fundamental biological value as it still sits in the middle of the neighborhood that has dogs and cats, just as the open site does now.

Where are offsite opportunities?

Per Mark De La Garza, seemingly supported by Growing Solutions and Claude, the preferred sites should be the following sites which the County controls:

- Preserve at San Marcos Public Park
- More Mesa County Park parcel
- More Mesa Flood Control parcel

Mark De La Garza said any of these sites would be better than the existing condition on the Park Hill property or even the onsite Park Hill mitigation as they are more open and natural sites than being in the middle of a fully developed neighborhood. The offsite plan would be parallel to the onsite plan except for a plant density per acre of 10%-15%

What mitigation ratio applies?

The relevant ratio was 2:1 in the 2007 approval. That matches the Community Plan standard too. There is no question that there will be more plants planted by more than even a 3:1 ratio. The current onsite plan would create more than 3 times the existing plants even onsite.

All restoration work will be monitored and maintained unlike the natural condition of those grasses. The CEQA expert said that 1:1 with required maintenance would eliminate potential significance from a CEQA standpoint.

What credit do we get for onsite replanting?

There is no scientific basis for giving us less than 1:1 credit for onsite plantings that are maintained compared to existing stands which are spread over 9 different sites. Those do not receive critical watering which our previously cited scientific report concluded was the critical item for survival.

How does this overlap with the bonus density?

We made a specific statutory request in our December 17, 2010 letter. The County has not made the statutory findings to deny the request but has procedurally thwarted the request. We are exploring with you an offsite mitigation program which will meet your needs. If this works we will have one incentive available that has not been used.

Is there any scientific data that this grass supports habitat?

The County has no scientific basis for deeming our pending mitigation inadequate or any proof that the onsite grasses support habitat. They are mowed closely for fire control per County Fire Department requirements.

We note that many local parcels that were not used for agriculture had some purple needle grass on them. Haskell's Landing originally approved by the County (subsequently approved by the City of Goleta) had a Coastal Commission report concluding that it was not ESHA as the site was isolated and had no ability to spread its seeds on adjacent sites. The Preserve at San Marcos has been an economic failure. The original developer lost the property, and the combination of the fire and new owner has left that mitigation program in limbo.

The County's demand for concessions from projects has caused most recent residential projects to fail financially, which in turn threatens the very environmental goals that underlie the County's actions.

Conclusion

We will agree to do offsite mitigation as set forth below.

Offsite mitigation is feasible on three local County sites without the necessity of doing further studies or plans.

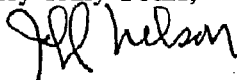
The appropriate mitigation ratio used for this property is 2:1.

2.46 acres x 2= 4.92 acres

1.61 acres onsite would leave a total remaining mitigation of 3.31 acres at an offsite location.

We will agree to mitigate offsite 3.31 acres on any of the mitigation sites listed above if the County will agree, in the next 10 days to proceed with the ND and the County finds the combination of on and offsite to be adequate mitigation.

Very Truly Yours,



Jeffrey C. Nelson

Park Hill ND hearing July 12, 2011

comments

(These are an outline of comments made orally)

Jeff Nelson applicant for the project

- This is not a full project presentation but limited comments germane to this negative declaration hearing.
- PROCESS- We filed 15 months ago reviewed all conditions, letters from neighbors and tapes of hearings.
- The application had an enormous advantage of having and considering every element of public input made in 2006- 2007.
- The property did not sell after 2007 approvals; we were not involved in the property or the process at that time.
- Most of the key limitations on building heights, pad heights came directly from the 2007 approval and the dynamic with neighbors then.
- The number and size of lots are both consistent with zoning state law and with the mixed size of lots in the neighborhood particularly those below Pennell
- 1.2 units per acre is low density infill by any measure
- This is the land division- future homes will be subject to these limitations and process, and will be subject to the marketplace and individual buyers desires.

- Key **Environmental issue** has been dealing with **grasslands**
 - Scattered stands of grasslands increased from 2007
 - County's requirements increased from 2007
 - Our solution was off site on the west campus bluffs in done by and with the UCSB Cheatle Center
 - Great win for greater community
 - Win for 5 back yard no longer planted with that
 - Win for Open space as it is useable now.
 - Makes for a better project throughout. Sustainable for residents.
- This hole in the neighborhood has been unfilled since 1971 purchase by Cohn and Zeluck, and moratorium and planning delays thereafter.
- When filled in with the project it will be where everyone walks
- where kids walk to the bus stop.
- It will increase public safety.
- It will have the one safe sidewalk in the area

Aesthetics

- Planned are mostly one story homes at 22 ft. height. This contrasts with mostly 2 story homes north of Pennell

Park Hill ND hearing July 12, 2011

comments

- CEQA principally deals with **public views** and the main Public view is along San Antonio Creek rd. - that will be unquestionable improved with pepper trees removed & walkway and low coherent landscaping.
- So will the stretch on via Los Santos.

Finally

We have met several times with neighbors, and appreciate their input.
We have written the closes 100 neighbors to lay out all the changes and why.

We believe in time people will see that this will feel like exactly what should happen to stitch this neighborhood together.
It is the missing hole in the middle,
and we believe it will be done right.



4705 Via Las Palmas Area Properties

0 350 700 Feet

One Inch = 350'

Date of Aerial : August 2008



Villalobos, David

FILE COPY

From: Danny Vickers [danny.vickers@cox.net]
Sent: Monday, November 28, 2011 7:33 PM
To: Villalobos, David
Subject: County_Planning_Commission - Park Hills Estates

RECEIVED

NOV 29 2011

S.B. COUNTY
PLANNING & DEVELOPMENT
HEARING SUPPORT

Categories: Purple Category

Mr. Villalobos,

I am the President of the San Antonio Creek Homeowners Association. Many of our members will attend the Planning Commission Meeting on Monday, December 5th for the Park Hills Estates hearing. Our neighborhood has hired an environmental consultant that will attend the Planning Commission Meeting. Cecilia Brown, our planning commissioner, recommended that I confirm that Commissioner Valencia will allow neighbors to give their speaking time to our consultant. Commissioner Brown indicated that this is the normal procedure; but, she recommended that I confirm it. Can you forward this message to Commissioner Valencia or send me his contact information?

I appreciate your assistance.

Sincerely,

Danny Vickers
President SACR HOA
4680 Pennell Road
Santa Barbara, CA 93111
805-729-3474

2

12-5-11

Villalobos, David

FILE COPY

From: Michael Cooney [Michael@IGSB.com]
Sent: Tuesday, November 29, 2011 10:27 AM
To: Villalobos, David
Subject: FW: Park Hill Estates Project.... Planning Commission Hearing

RECEIVED

Categories: Purple Category

NOV 29 2011

S.B. COUNTY
PLANNING & DEVELOPMENT
HEARING SUPPORT

Hi David—

Will you see that the other Commissioners receive a copy of this e-mail?

Thanks,

Michael

SEARCHED _____
SERIAL _____
INDEXED _____
FILED _____
NOV 29 2011
2
12-5-11

From: Dean Johnston [mailto:DeanJ@sbbcollege.edu]
Sent: Monday, November 28, 2011 10:04 PM
To: Michael Cooney
Subject: Park Hill Estates Project.... Planning Commission Hearing

Mike,

I would like to ask for your assistance in the Planning Commission's review of the Park Hill Estates project scheduled for December 5th. I will be out of town and therefore unable to attend the meeting to voice my concerns in person. I'm sure there will be plenty of my neighbors in attendance. This project has created much concern on several fronts for those of us who live near the proposed project. We have attempted to work with the County staff and developer. We are disappointed in the staffs new findings regarding this project. This project was reviewed in 2007 with very different findings and mitigations under a different developer.

On December 5th the Planning Commission will review the new plan for Park Hill Estates. I'm writing you to encourage the Planning Commission to deny the proposed plan and suggest the Commission require the 2007 plan instead. Over 250 neighbors have signed a petition asking the County to require the 2007 Plan be followed. In 2007, the neighborhood, the County and the developer worked together for at least 18 months to create a plan which protected the environment and addressed all the concerns of the neighborhood. We all were happy campers. In the 2007 Plan, County staff stated in Attachment A of their staff report on page 4 paragraph 2.2.3.4 the site was not environmentally suited for more than 12 single family homes. The current developer has added four additional homes to the site currently totaling sixteen homes. The neighborhood has difficulty understanding why the County staff would change their findings from their 2007 Plan. The neighborhood is not against compatible development. We understand the developers motives and certainly want this project to

be successful and reflect positively on our neighborhood. There is another developer willing to purchase the property and build in accordance with the 2007 Plan which indicates to me the economic feasibility of the original plan. The neighborhood feels the approval of the additional four homes over the 2007 Plan changes the project significantly. As you know this area was burned in the painted cave fire. Many homes were lost and evacuation was a nightmare. The neighborhood is very concerned about the additional density, emergency egress, street parking which has never been allowed, and the look and feel of a planned unit development in an area where only custom homes currently exist. I don't believe we have been unreasonable in our concerns and requests in our discussions with the developer. We believe the 2011 Plan should be denied for the following reasons:

1) The 2011 Plan will look like a planned unit development which is not compatible with our rural custom home neighborhood. We feel the 2007 Plan mitigated this issue. The developer would like to build a project similar to Vintage Ranch where the homes are closer together and have a similar architectural appearance. His plan also calls for parking along the street which does not exist anywhere in our neighborhood. At our first meeting, the developer presented his project at Vintage Ranch off of Puente as the model for Park Hills Estates. He recently reiterated his vision for the project which is not custom homes on large lots with room for pools, sports courts and separation between homes.

In 2) In 2007, with the leadership of Suzanne Elledge, public views were adequately protected. The 2011 plan calls for homes to be closer together and higher by four feet. We believe this additional four feet will impact public views.

4. 3) In 2007, the plan called for onsite mitigation of native grasslands. The 2011 plan has mitigation occurring at UCSB which we oppose. If we lose all of the native grasslands, it will also mean a loss of wildlife. The Goleta Community Plan and CEQA calls for onsite mitigation whenever possible. The 2007 plan is evidence onsite mitigation is possible. We would hope the County will require onsite mitigation.

5. 4) With increased density, 16 homes instead of the 2007 Plan of 12 homes, will add traffic and increase the difficulty of evacuating the neighborhood during a fire in an area where very few exit streets exist out of the area. Fire safety is a major concern for all neighbors. As you know evacuation was a major problem for this area during the painted cave fire.

I would appreciate your support during the Commission meeting in addressing the above concerns. If you have any additional questions, please contact.

Sorry you must deal with all these planning issues. I trust your experience and judgment in these matters. Relief is right around the corner.....baseball season starts soon.