



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Planning &
Development
Department No.: 053
For Agenda Of: April 20, 2010
Placement: Set Hearing
Estimated Tme: 1 hour on 5/04/10
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

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

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

SUBJECT: **Mission Canyon Association Appeal of Planning Commission Approval of the
Santa Barbara Botanic Garden Vital Mission Plan**

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence: N/A

Recommended Actions: Set a hearing for May 4, 2010 to consider an appeal filed by the Mission Canyon Association (09APL-00000-00030) of the Planning Commission's October 26, 2009 approval of the Santa Barbara Botanic Garden's Vital Mission Plan project, located at 1212 Mission Canyon Road in the Mission Canyon area, First Supervisorial District.

On May 4, 2010, your Board's action should include the following:

1. Deny the appeal, Case No. 09APL-00000-00030, thereby upholding the County Planning Commission's approval of 72-CP-116 RV01 and 99-DP-043 (the Vital Mission Plan) as revised herein;
2. Make the required findings for approval of Case Nos. 72-CP-116 RV01 and 99-DP-043 (the Vital Mission Plan) included as Attachment 2, including CEQA findings;
3. Certify the Final Environmental Impact Report, 07EIR-00000-00001 (Attachment 7), including the FEIR Revision Letter (RV1) (Attachment 3), and adopt the mitigation monitoring program contained in the conditions of approval; and

4. Grant *de novo* approval of Case Nos. 72-CP-116 RV01 and 99-DP-043 (the Vital Mission Plan), as revised from the Planning Commission approval, subject to the revised conditions of approval included as Attachment 4.

Summary Text:

After four hearings, on October 26, 2009, the County Planning Commission approved the Santa Barbara Botanic Garden's Vital Mission Plan, including a revised Conditional Use Permit and Development Plan (Case Nos. 72-CP-116 RV01, 99-DP-043). The Vital Mission Plan involves the net increase of approximately 25,414 s.f. of new development within the Botanic Garden's Mission Canyon setting, consisting of a combination of administrative, research, and education facilities, as well as new staff housing. In addition to the new structural development, the revised CUP includes explicit allowances for uses and activities at the Garden, including general visitation, classes, and special events. The project would be built in phases over the next 10 years. Included with the approval of the revised CUP are 98 conditions applied to the operation of the Garden and buildout of the Vital Mission Plan. Details of the project as approved by the Planning Commission are provided in the Background section below.

The Mission Canyon Association appealed the County Planning Commission's decision on October 26, 2009 for two reasons, as enumerated in their grounds for appeal (Attachment 1). The issues center on 1) public safety and emergency evacuation in the event of a wildfire, with concerns about the adequacy of the Garden's Fire Protection Plan and 2) increased level of use envisioned under the Vital Mission Plan and its effects on the surrounding residents.

A facilitation meeting was held between the applicant and appellants on January 20, 2010. Attempts were made at reaching agreement on acceptable levels of use at the Garden, including establishing tighter controls on the size of events throughout the year and the number of evening outdoor events. While significant discussions occurred and solutions were offered, the parties were ultimately unable to come to any agreement or compromise that would result in the MCA dropping its appeal.

Consideration of the Mission Canyon Association Appeal

The Mission Canyon Association (MCA) has enumerated two grounds for its appeal. Each issue is discussed separately below.

Issue 1 – Inadequacy of Fire Protection Plan

The first issue raised by the appellant is that the project's Fire Protection Plan, when viewed in conjunction with the Planning Commission approved increases in use at the Botanic Garden, does not adequately mitigate impacts with respect to defensibility from wildfire risks, emergency access and evacuation, and increased activity on-site. The MCA asserts that the existing road network in Mission Canyon that provides access to the Botanic Garden does not have the capacity to serve the Planning Commission's approved increases in visitors to the Garden and provide for adequate evacuation of the Mission Canyon neighborhood in the event of a wildfire event.

The County Planning Commission recognized that the Botanic Garden is sited in a high fire hazard area and that Mission Canyon residents are exposed to wildfire hazards, as evidenced by the 2009 Jesusita Fire. Mission Canyon has limited points of access into and out of the canyon. Mission Canyon Road is

the only access road for many Mission Canyon residents, as well as for the Garden. In a wildfire scenario, fire and other emergency first responders would rely on the same primary path to gain access to the fire that the residents and Garden visitors use to relocate or evacuate during a fire event.

The EIR concludes that fire hazards associated with the project are potentially significant but mitigable. The increase in visitors to the Garden contemplated as part of the project, and approved by the County Planning Commission, especially associated with special events and activities, potentially exacerbates an already hazardous situation in terms of inhibiting evacuation of surrounding residents during a wildfire event as visitors of the Garden add vehicles to Mission Canyon Road. Proposed mitigation measures and project improvements have been applied to reduce these potential impacts, including: 1) closing the Garden on Red Flag Days, days in which the potential for a rapid-onset wildfire are greatest; 2) limiting special events to no more than 180 guests during High Fire Season Preparedness levels; 3) requiring the use of shuttle buses/trolleys that remain on-site for events with more than 80 guests during High Fire Season Preparedness levels in order to facilitate rapid evacuation with minimal vehicles; and 4) various improvements to the site, as identified in the Fire Protection Plan, including increased water supply, more rigorous vegetation management, improved emergency access within the Garden, installation of a Remote Access Weather Station, etc. that enhance fire protection and fire-fighting capabilities in and around the Garden.

On balance with the proposed increases in use, the EIR (with concurrence by the County Fire Department) concluded that these measures are sufficient to reduce the fire hazard impacts of the project and associated increases in use to less than significant levels (Class II). With no established quantitative thresholds¹ against which to evaluate the project's fire hazard impacts, the EIR analysis relied on expert opinion by the County Fire Department in concluding that the project would result in a Class II impact. The County Fire Department was an active participant in the review and approval of the Fire Protection Plan prepared for the project and determined that it adequately addresses the existing fire hazards in terms of defensibility (e.g. increased water flow and hydrants, fuel management, access, fire-resistant building materials, etc.), and offsets the impacts to evacuation from increases in use through the red flag closures, use restrictions during high fire preparedness periods, and use of shuttle buses for large events. This does not mean that the fire hazards and problematic evacuation issues that currently exist in Mission Canyon are reduced, but rather that the project's contributions to these hazards are not significant. The County Fire Department has indicated they can adequately serve the Garden, including its proposed increases in use, while relying on the existing road network. By improving the existing private internal road through the Garden property on the east side of Mission Canyon Road, the project provides the County Fire Department and other emergency responders with an alternative means of accessing upper Mission Canyon in the event that portions of Mission Canyon Road are obstructed. Alternatively, this road could also provide residents an alternative means of evacuating by bypassing a segment of Mission Canyon Road and reaching Las Canoas Road, depending on the particulars of a wildfire event.

¹ The County's adopted CEQA thresholds (*Environmental Thresholds and Guidelines Manual*) do not include any thresholds for determining significance related to fire hazard impacts. A qualitative threshold is provided by the State CEQA Guidelines (Appendix G), but lacks any quantitative guidelines for determining the significance of an impact.

Issue 2 – Neighborhood Compatibility

The second appeal issue raised by the MCA is that the project's inclusion of large events with amplified sound and alcoholic beverages is not compatible with the character of Mission Canyon. Mission Canyon is characterized by low-density residential development, becoming increasingly semi-rural in character further up the canyon where it abuts Los Padres National Forest.

One of the findings that must be made by the decision makers in approving the project is that the project "will not be detrimental to the comfort, convenience, general welfare, health, and safety of the neighborhood and will be compatible with the surrounding area." A second finding is that environmental impacts are mitigated to the maximum extent feasible. The Botanic Garden has operated in Mission Canyon since 1926 and has a long tradition of attracting visitors and hosting events, though the types and intensity of events have evolved over the last 84 years, as has the density of residential development surrounding the Garden. The Planning Commission placed certain restrictions on the size and frequency of events held at the Garden in approving the Vital Mission Plan, including an allowance for annual visitation and event attendance to gradually increase by 1.8% per year up to a maximum of 50% above current levels. The nexus for these restrictions was based on the necessary findings for approval identified above and did not come out of the EIR analysis as necessary mitigation to reduce impacts to less than significant levels. The annual increase of 1.8% is based on the average growth that the Garden experienced over a 10-year period between 1997 and 2006. The Planning Commission was presented with several options for regulating uses and activities at the Garden and selected the 50% cap as a mechanism for ensuring that the Garden does not experience indefinite expansion while allowing for continued growth consistent with historic growth trends. The MCA asserts that such an increase is inappropriate given the quiet character of Mission Canyon and would compromise the comfort, welfare, and safety of the surrounding residents. The MCA is requesting that attendance be capped at no more than a 10% increase over current levels and that the Garden be closed at sunset for outdoor events.

The Planning Commission did not impose any restrictions on nighttime events or the serving of alcohol, though the project was conditioned to ensure that amplified sound associated with events would not exceed the County threshold of 65 decibels at the property lines.

Background:

The Santa Barbara Botanic Garden has been operating at its current location in Mission Canyon since 1926. It currently operates under a 1972 CUP covering approximately 65 acres and has not undergone any significant facility improvements for over twenty years, though its uses and exhibits continue to evolve. It is surrounded by low intensity residential development. Existing structural development totals 39,558 square feet. Upon completion of the project, the Garden would include a total floor area of 65,442 square feet, representing an approximate 65% increase over existing development. Thirteen acres would be incorporated into the Garden's revised CUP, for a total of 78 acres.

The Garden functions to promote and maintain public programs, botanical collections and exhibits that provide opportunities for research, education and interpretation, conservation, and display. As a non-profit organization, the Garden also engages in various fundraising activities, including holding public classes and lectures, fundraisers, private parties and events. The Planning Commission, in approving the project, placed annual visitation limits associated with events, classes, and general visitation, but allowed such limits to increase by 1.8% per year up to a maximum increase of 50% over existing levels.

In an effort to retain staff and provide 24-hour maintenance and care of the Garden, the Garden currently provides four on-site residential units, three of which are located east of Mission Canyon Road. The Planning Commission approval included four new residential units and conversion of an existing duplex into a single family dwelling (for a net increase of three units within the project as a whole) to provide additional housing opportunities for staff, three of which would be located in the same area of the project site.

The Garden currently includes 30 buildings² (including shade structures) totaling approximately 39,558 square feet of development (see table below). The project would result in a net floor area increase of 25,884 square feet relative to existing development (65% increase), taking into account the demolition of several buildings. Upon completion of the proposed project, the Garden would include a total floor area of 65,442 square feet of development (existing plus proposed development). The proposed buildout is anticipated to occur over an approximate ten-year period, though the increases in uses proposed would extend for the life of the project. With buildout of the project, approximately 91% of the site would remain undeveloped in open space or garden exhibits.

Specific elements of the Vital Mission Plan project approved by the Planning Commission include:

- Construction of 15 new buildings, including:
 - 16,171 square feet of new development for research, education, and conservation space, including a new Education Center (7,941 s.f.), Children's Lab (2,678 s.f.), and Conservation Center/Herbarium (5,552 s.f.);
 - Three new residential units totaling 4,235 square feet devoted to subsidized housing for full-time Garden employees;
 - 8,414 square feet of additional horticulture and plant propagation areas, including the new Horticultural Offices (3,527 s.f.) and Garage (1,733 s.f.), four shade structures (1,600 s.f.), Cavalli Office/Garage (1,168 s.f.), and storage facilities (386 s.f.);
 - New Admissions Kiosk/Restrooms (724 s.f.);
- Reconstruction of Gane House destroyed in Jesusita Fire;
- Relocation of Caretaker's Cottage from west side to east side of Mission Canyon Road and conversion back to staff residence;
- Demolition of six buildings totaling 4,240 s.f.;
- Addition to North Wing (674 s.f.) and Director's Garage (457 s.f., destroyed in Jesusita Fire);
- Construction of three-tiered Meadow Terrace;
- Installation of pavers between and around buildings, as well as adjacent areas for access (not to exceed 10% over existing paving);
- New three-space staff parking area on Mission Canyon Road by Las Canoas Road and pedestrian bridge serving the Guild Studio;
- Installation of 3 ½-foot tall fencing around most of property boundaries; existing 6-foot cyclone fencing to remain and be set back six feet from roadway where possible;

² This figure represents the pre-fire condition and is kept as is to reflect the fact that the Garden intends to rebuild structures that were lost in the May 2009 Jesusita Fire.

- Allowance for the erection of temporary displays or art exhibits, not to exceed 1,200 s.f.; seasonal displays would be permitted for up to 90 days and temporary art exhibits would be permitted for up to three years;
- Total annual attendance associated with educational programs would be limited to a 1.8% annual increase above existing levels (i.e. 1,778 attendees), up to a maximum increase of 50% (2,667); an increase in daytime and nighttime class sizes from 20 to 22 students, with Master Gardner and Docent trainings having up to 50 students and the Annual Lecture Series having up to 70 attendees;
- Total annual attendance associated with special events would be limited to a 1.8% annual increase above existing levels (i.e. 1,983 attendees), up to a maximum increase of 50% (2,974); no single event shall exceed 300 guests (180 guests during high fire season preparedness periods) at any one time, and no more than three large events (i.e. more than 80 guests) permitted per month; and
- Total annual visitation limited to a 1.8% annual increase above existing levels (i.e. 110,000 visitors), up to a maximum increase of 50% (165,000).

Santa Barbara Botanic Garden Existing Structures

Symbol	Building Name / Description	Square Footage (Footprint)	Changes	# of Floors
E1	Caretaker's Cottage (offices)	1,390 (1,390)	Relocate, convert to residence	1
E2	Herbarium (collections)	2,818 (1,209)	Demolish	2
E3	Blaksley Library (library, office)	3,153 (1,577)	Remodel, offices, exhibit space, snack window	2
E4	Lath House/Plant Sales	3,003 (3,003)	Remodel	1
E5	North Wing (office, gift shop, kitchen, classroom)	3,298 (1,649)	674 s.f. addition, remodel	2
E6	Visitor Kiosk (admissions)	170 (170)	Demolish	1
E7	Restrooms	404 (404)	Remodel – storage	1
E8	Information Kiosk	320 (320)	No change	1
E9	Tea House	188 (188)	No change	1
E10	Gane House (maintenance and storage)	9,318 (3,975)	Rebuild (fire) 8,178 s.f., offices	2 + basement
E11	Storage Shed	339 (339)	Demolish	1
E12	Storage Shed	356 (356)	Rebuild (fire)	1
E13	Storage Shed	323 (323)	Demolish	1
E14	Storage Shed	150 (150)	Rebuild (fire) and relocate	1
E15	Can Yard (shade structure)	1,984 (1,984)	Rebuild (fire)	1
E16	Shade Structure (plants)	244 (244)	Rebuild (fire), 119 s.f. addition	1
E17	Lath House (plants)	725 (725)	Rebuild (fire)	1
E18	Shade Structure (plants)	686 (686)	Rebuild (fire)	1
E19	Head House (office, seed bank)	1,138 (1,138)	No change	1
E20	Wood Shed (storage)	143	Rebuild (fire) and relocate	1
E21	Guild Studio (office, storage, guest quarters)	1,585 (1,440)	No change	1 (raised)
E22	Tunnel Road Annex (storage)	483 (483)	No change	1
E23	Employee Residence	1,185 (1,185)	Remodel	1
E24	Employee Residence (duplex)	2,502 (2,203)	Remodel, SFD	2

Symbol	Building Name / Description	Square Footage (Footprint)	Changes	# of Floors
E25	Storage Shed	667 (667)	No change	1
E26	Storage Shed	185 (185)	Demolish	1
E27	Director's Residence	1,496 (1,496)	Rebuild (fire)	1
E28	Director's Garage	500 (500)	Rebuild (fire), 457 s.f. 2 nd story addition	2
E29	Shade Structure	400 (400)	No change	1
E30	Shade Structure	405	Demolish	1
Additions/Subtractions		N/A	-4,130 (-1,997)	N/A
Total		39,558 (28,937)	35,428 (26,940)	N/A

Santa Barbara Botanic Garden Proposed Structures

Symbol	Building Name / Description	Square Footage (Footprint)	# of Floors
P1-A	Children's Lab	2,678 (1,748)	2
P1-B	Library/Education Center	7,941 (2,779)	2 + basement
P3	Visitor's Admission	724 (724)	1
P5	Conservation Center	5,552 (2,215)	2 + basement
P6/7/8	Horticulture Offices, Garage & Services	3,527 (3,527)	1
P9	Horticultural Garage/Support	1,733 (1,733)	1
P10	Can Yard (propagation)	400 (400)	1
P12	Garage	386 (386)	1
P13	Staff Residence	1,472 (1,472)	1
P14	Staff Residence	1,496 (1,496)	1
P17	Shade Structure	400 (400)	1
P18	Shade Structure	400 (400)	1
P19	Shade Structure	400 (400)	1
P21	Garage/Office	1,168 (1,168)	1
P22	Staff Residence	1,267 (1,267)	1
Total – Proposed Development		29,544 (20,095)	N/A
Total – Existing + Proposed		64,972 (47,035)	N/A
Net Increase		25,414 (18,098)	N/A

The EIR prepared to evaluate the impacts of the project concluded that the project's impacts could be reduced to less than significant levels with the implementation of applicable mitigation measures that have since been added as conditions of project approval as approved by the Planning Commission. A copy of the proposed Final EIR is included as an attachment to this Board letter and is also available to the public for viewing at P&D's office or on P&D's website at <http://www.sbcountyplanning.org/projects/02NEW-00138/index.cfm>.

Project Revision 1

Subsequent to approval of the project by the Planning Commission, staff revisited applicable ordinance requirements in response to a question raised by a member of the public, specifically relating to allowable residential uses on parcels zoned REC (Recreation). The project as approved by the Planning

Commission includes a total of five staff residences on a single lot (referred to as the Hansen site) east of Mission Canyon Road, consisting of two existing units to be remodeled, two new units, and one relocated unit from the west side of Mission Canyon Road (Caretaker's Cottage). The Land Use and Development Code (LUDC) allows a maximum of one caretaker unit per legal lot within the Recreation (REC) zone. Staff's initial interpretation was that since the Garden operates under a Conditional Use Permit, which allows uses above and beyond those that are principally permitted, and is composed of multiple legal lots, this zoning allowance could be modified to allow the clustering of units within a single lot. However, upon further consideration of this issue, staff has concluded that the project needs to be revised in order to ensure strict compliance with this ordinance restriction regarding density on REC zoned parcels. To this end, staff is recommending that the project as approved by the Planning Commission be revised through your Board's *de novo* hearing to eliminate the two new residential units on the Hansen site and relocate the third existing unit (the historic Caretaker's Cottage that is currently used for administrative functions) to the site of the Director's residence on Tunnel Road that was destroyed in the Jesusita Fire. The two existing staff residences on the Hansen site could remain and be remodeled (one would become the legal caretaker unit and the second would remain legal non-conforming). These changes would ensure that the project conforms to applicable regulations of the LUDC and that the findings for approval can be made.

Project Revision 2

In approving the project, the County Planning Commission imposed the following condition to regulate uses and activities on-site:

63. Intensity of Use. Total visitation shall not exceed 110,000 persons per year for the first year following project approval. Thereafter, total visitation shall be limited to a 1.8% annual increase, up to a maximum increase of 50% (i.e. 165,000). Beginning the first year following project approval, attendance associated with Garden classes³ and events⁴ shall be limited to a 1.8% annual increase above existing levels (existing levels equate to 1,778 for classes and 1,983 for events, based on a 10-year average from 1997 to 2006), up to a maximum increase of 50% (i.e. 2,667 for classes and 2,974 for events, respectively) without subsequent approval by the Planning Commission. These limits shall be based on a 3-year rolling average. If these limits are exceeded in any single year, the Garden shall take the necessary steps to adjust its scheduling in order to adhere to the limits on a three-year rolling average. No single event shall exceed 300 guests at any one time, subject to the separate restrictions during the High Fire Season Preparedness Levels included in Condition #31. Attendance for individual classes and educational programs (i.e. trainings and lectures) shall comply with the maximums identified in the project description. No more than three events individually exceeding 80 attendees in any given month, inclusive of community events, shall be permitted.

In considering this condition further and how it would be implemented, staff has discovered that the combination of a 3-year rolling average and a 1.8% annual increase has the unintended result of allowing the Garden to exceed its annual cap by a small percentage each year and still be considered in

³ Classes shall include daytime and nighttime classes, summer programs, docent and Master Gardner training, and lectures. School groups shall not count towards the annual class limit.

⁴ Events shall include fundraisers, community group meetings, private parties, recognition events, symposia and workshops, and other events not open to the public. Events open to the public or where visitation is spread out throughout the day shall not count towards the annual event limit, but shall otherwise comply with this condition.

compliance with this condition. To remedy this oversight, staff recommends elimination of the three-year rolling average from this condition. Instead, staff recommends requiring that if the cap is exceeded in a particular year, the Garden shall be required to offset any exceedance by a corresponding reduction the following year and shall forego its 1.8% growth for that year. Alternatively, your Board can select another method for regulating uses and activities at the Garden.

Summary and Recommendations

In the discussions above, staff has presented how the grounds for the appeal filed by the Mission Canyon Association have been adequately addressed by the County. Therefore, staff recommends denial of the appeal.

Performance Measure: N/A

Fiscal and Facilities Impacts:

Budgeted: Yes

Fiscal Analysis:

The costs for processing appeals are partially offset through payment of a fixed appeal fee of \$643 (\$500 of which covers P&D costs). Three separate appeals of the Planning Commission's approval were filed for this project, for a total cost of \$1,929. A fourth appeal was filed by the Botanic Garden on the Historic Landmark Advisory Commission's (HLAC) action on the project. There is no individual fee established for processing an appeal of a decision by the HLAC. The total estimated time to process these four appeals is approximately 110 staff hours, which equates to approximately \$18,000. These funds are budgeted in the Permitting and Compliance Program of the Development Review South Division, as shown on page D-301 of the adopted 2009/2010 fiscal year budget.

Staffing Impacts:

None.

Special Instructions:

The Clerk of the Board shall publish a legal notice at least 10 days prior to the hearing on May 4, 2010. The Clerk of the Board shall fulfill noticing requirements. Mailing labels for the mailed notice are attached. The Clerk of the Board shall send a notice via certified mail to the Santa Barbara Botanic Garden, attention Ed Schneider. A minute order of the hearing and copy of the notice and proof of publication shall be returned to Planning and Development, attention David Villalobos.

Attachments:

- Attachment 1: MCA Appeal Letter
- Attachment 2: Findings for Approval*
- Attachment 3: EIR Revision Letter*
- Attachment 4: Conditions of Approval*
- Attachment 5: Planning Commission Action Letter*

Attachment 6: Planning Commission Staff Reports and Memoranda*

- PC Staff Report, July 22, 2009
- Staff Memorandum, August 5, 2009
- Staff Memorandum, August 27, 2009
- Staff Memorandum, September 2, 2009
- Staff Memorandum, September 16, 2009
- Staff Memorandum, October 16, 2009
- Staff Memorandum, October 23, 2009

Attachment 7: Final EIR* (See Attachment 6 - PC Staff report dated July 22, 2009 - for EIR Executive Summary)

* Refer to Board Letter prepared for 09APL-00000-00029 for these attachments.

Authored by: Alex Tuttle, 884-6844