



Meeting Date: 11/18/08

ACTION	TYPE OF ITEM
<input type="checkbox"/> Approved Recommendation	<input type="checkbox"/> Info/Consent
<input type="checkbox"/> Ord. No(s). _____	<input type="checkbox"/> Report
<input type="checkbox"/> Res. No(s). _____	<input checked="" type="checkbox"/> Public Hearing
<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____

Prepared By: Kathleen Mallory, AICP, Contract Planner *K Mallory* Agenda Item No. 4-4

Reviewed By: City Manager *[Signature]* City Attorney *[Signature]* Finance *[Signature]* Other (Specify) _____

DATE: November 18, 2008

TO: City Council

FROM: Susan L. Martin, AICP, Planning Manager *[Signature]*

SUBJECT: Appeal of Planning Commission Action on Final Environmental Impact Report No. 06-03 for the Oxnard Village Specific Plan Project, Located on the South Side of Highway 101, Between Ventura Road and Oxnard Boulevard, North of the Railroad Tracks. Filed by Stephen Schafer, San Buenaventura Conservancy, P.O. Box 24218, Ventura, CA 93002.

RECOMMENDATION

That City Council adopt a resolution upholding the Planning Commission's certification of Final Environmental Impact Report No. 06-03 for the Oxnard Village Specific Plan Project (see Attachment 1).

DISCUSSION

On September 18, 2008, the Oxnard Planning Commission certified the Final Environmental Impact report (FEIR) for the Oxnard Village Specific Plan Project (see Attachments 2 and 3). On October 6, 2008, the San Buenaventura Conservancy ("Conservancy") submitted an appeal of the Planning Commission's decision to certify the FEIR. As stated in the appeal justification and the Conservancy's letter attached to the justification (see Attachment 4), the appeal is based upon "inadequacy of the EIR and insufficient findings for a Statement of Overriding Considerations (SOC)."

The Conservancy contends that the FEIR "did not adequately explore mitigating the impacts to the Wagon Wheel Motel and Buildings (motel check in office/restaurant, and El Ranchito restaurant building) through a 'Modified Project' and/or exploration of a feasible alternative that would carve out a parcel around the retained historic resources while allowing the remainder of the project to be fully developed." The appellant states that "without consideration of this alternative, the EIR has failed to consider a reasonable range of alternatives."

The Conservancy further contends that it was "improper for a Statement of Overriding Considerations to be adopted if there are feasible alternatives that would meet most of the goals of the project...Just because the project would be less profitable if the Wagon Wheel Motel and Buildings were preserved, does not make such an option infeasible or their destruction acceptable...It has not been shown that the project would be financially infeasible on approximately 60 acres rather than 64, what the Conservancy

suggests as a 'Project Minus Historic Buildings' alternative." Thus the appellant is essentially claiming that the CEQA Findings and Statement of Overriding Considerations (particularly Section VI, Subsections B through D; Section VII; and exhibits B through E, see Attachment 5, FEIR) failed to demonstrate that a project alternative that preserves the historic structures would indeed be financially feasible, and that such an alternative should not have been rejected as infeasible.

In accordance with City Resolution No. 10,135 the County of Ventura Cultural Heritage Board has been designated as the City's Cultural Heritage Board. On June 23, 2008 the County Cultural Heritage Board adopted a resolution recommending that the Oxnard City Council consider the adaptive reuse of the Wagon Wheel Restaurant and Motel office building; historical significance was expanded to include the bowling alley as well and recommended to be considered Ventura County Landmark No. 166 (see Attachment 6). The FEIR contains a number of mitigation measures to preserve the historic significance of the Wagon Wheel motel and restaurant (see staff's response below). City Council consideration of this recommendation should be considered in the Council's action on this appeal.

Staff's Response to the Appeal Conservancy Appeal Issues

1. The EIR did not consider a reasonable range of alternatives because the EIR a) did not provide mitigation measures to avoid the significant impacts of demolition, and/or b) did not explore a feasible alternative that would "carve out a parcel around the retained historic resources while allowing the remainder of the Project to be fully developed."

Staff Response

The certified FEIR includes mitigation measures CR-2 a through c (see Attachment 5) in Section 4.4 (Cultural Resources) to reduce the significant impact of demolition of the historic structures. As noted in the FEIR, the impact would remain significant and unavoidable after mitigation.

As stated in CEQA Guidelines Section 15126.6, "[a]n EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision-making and public participation."

The EIR identifies and discusses four project alternatives, all of which would avoid demolition of the historic structures. The range of project alternatives studied is broad enough that, if the Planning Commission had found it to be financially feasible, an alternative such as that described by the appellant could have been approved using the EIR as the CEQA document. The appellant's preferred alternative is essentially a combination of the proposed project with the preservation component of the alternatives. Thus the EIR both a) provided mitigation measures to reduce the impact of demolition of the historic structures and b) analyzed alternatives that included preservation of the historic structures while allowing the remainder of the site to be developed with a variety of uses and densities.

Conservancy Appeal Issues

2. The CEQA Findings and Statement of Overriding Considerations adopted by the Planning Commission failed to demonstrate that a project alternative that preserves the historic structures would indeed be financially infeasible. Such an alternative should not have been rejected as infeasible.

Staff's Response

Pursuant to CEQA Guidelines Section 15091, in certifying an EIR a lead agency may find that "specific economic, legal, social, technological, or other considerations...make infeasible the mitigation measures or project alternatives identified in the Final EIR." Extensive or more than adequate documentation supporting the infeasibility of project alternatives may be found in Section VI, Subsections B through D; Section VII; and exhibits B through E of the CEQA Findings and Statement of Overriding Considerations adopted by the Planning Commission for the Oxnard Village Specific Plan Project on September 18, 2008.

The Planning Commission's determination that the project alternatives, which preserved the Wagon Wheel Motel and Buildings, were not feasible was based in large part upon financial feasibility studies submitted by the project applicant (Exhibits B through E of the CEQA Findings and Statement of Overriding Considerations adopted by the Planning Commission for the project on September 18, 2008, see Attachment 1). These studies along with Attachment 7 were reviewed by the City's Community Development Director who concurred with the conclusions and findings within this report.

In response to the Conservancy's appeal, the applicant prepared a development pro-forma analyzing the feasibility of the specific alternative requested by the Conservancy (see Attachment 7). This pro-forma utilized cost and revenue information derived by Economics Research Associates, Pat McCarthy Construction, and the applicant's internal community development department. The development pro-forma found this alternative to be financially infeasible with or without renovation of the Wagon Wheel Motel and Buildings.

The finding of financial infeasibility combined with the required mitigation measures to reduce impacts to historic resources provided in the Final EIR and Mitigation Monitoring and Reporting Program were the basis of the Planning Commission's decision to certify the EIR and adopt the CEQA Findings and Statement of Overriding Considerations.

FINANCIAL IMPACT

This Project will provide funding to address impacts and make improvements to the City's transportation system and other infrastructure and services. The development agreement requires payment of traffic impact fees to address impacts and improvements to local road ways, Quimby fees to improve City parks, water and wastewater fees to offset the cost of infrastructure improvements, as well as fees for other improvements and services such as public safety. Future financial benefits include additional sales and property taxes to support City services and approximately \$200 million of tax increment revenue, including \$65 million of affordable housing set aside funds to the Historic Enhancement and Revitalization (HERO) revitalization area.

- Attachments 1 – City Council Resolution Upholding Commission Certification
2 – Planning Commission FEIR Certification Resolution, 2008-59
3 – September 18, 2008 Planning Commission minutes
4 -San Buenaventura Conservancy's Appeal Documentation, including Supplemental Appeal Letter
5 – Final EIR
6 – June 23, 2008 Ventura County Cultural Heritage Board Minutes
7 – Financial Feasibility Analysis, October 27, 2008

Note: Attachment Nos. 1, 2, and 5 have been provided to the City Council under separate cover. Copies are available for review at the Circulation Desk in the Library after 6:00 p.m. on Monday prior to the Council meeting and at the City Clerk's Office after 8:00 a.m. on the Monday prior.

MINUTES

OXNARD PLANNING COMMISSION
REGULAR MEETING
SEPTEMBER 18, 2008

A. ROLL CALL

At 7:04 p.m., the regular meeting of the Oxnard Planning Commission convened in the Council Chambers. Commissioners Sonny Okada, Irene Pinkard, Chairman Michael Sanchez, Saul Medina, and Deirdre Frank were present. Chair Sanchez presided and called the meeting to order. Staff members present were: Chris Williamson, Senior Planner, Matthew Winegar, Development Services Director; Paul Wendt, Senior Civil Engineer; Jason Samonte, Traffic Engineer; James Rupp, Assistant City Attorney; Juan Martinez, Associate Planner; Kathleen Mallory, Contract Planner, and Lori Maxfield, Recording Secretary.

B. PUBLIC COMMENTS

Mr. John Flynn discussed the relocation plan for the residents of the Wagon Wheel Mobilehome Park, due to the proposed closure.

C. READING OF AGENDA

Senior Planner Williamson reviewed the agenda including indicating the revised resolutions had been distributed to the Planning Commission on Items D-2 and D-3. He also stated that the applicant for Item F-4 had requested that action on the mobilehome park closure be continued to October 2, 2008.

D. CONSENT AGENDA

1. APPROVAL OF MINUTES – September 4, 2008
2. Adoption of a resolution denying a General Plan Amendment (PZ 06-620-01); Specific Plan Amendment (06-630-01); Zone Change (PZ 06-570-02); Tentative Subdivision Map for Tract No. 5672 (PZ 06-300-01); Special Use Permit (PZ 06-540-01); and Development Agreement (PZ 07-670-01) for the Vineyard-Ventura Homes project proposed to develop 201 “for-sale” residential units, including 126 two-story condominium cluster homes and 75 two-story, single family detached homes, on 25.4 acres (APNs 179-0-040-170, 179-0-040-180, 179-0-040-585 and 179-0-040-625). The subject site is at the northwest corner of Vineyard Avenue and North Ventura Road addressed at 1801 West Vineyard Avenue. Filed by Casden Properties, LLC., 9090 Wilshire Blvd., 3rd floor, Beverly Hills, CA 90211.
3. Adoption of a resolution denying a Special Use Permit (PZ 07-540-03); Tentative Subdivision Map for Tract No. 5765 (PZ 07-300-11); General Plan Amendment (PZ 07-620-04); Specific Plan Amendment (PZ 07-630-02); Zone Change (PZ 07-570-03); and Development Agreement (PZ 07-670-02) for the Vineyard Townhome project to develop 143 two and one-half and three and one-half story podium style condominium units on 9.6 acres (APNs 179-0-070-265). The subject site is located on the west side of Ventura Road, 1,500 feet north of the intersection at Vineyard Avenue. Filed by Casden Properties, LLC., 9090 Wilshire Blvd., 3rd floor, Beverly Hills, CA 90211.

MOTION Commissioner Medina moved and Commissioner Okada seconded a motion to approve the minutes of September 4, 2008 as presented: adopt a resolution denying PZ 06-540-01, (Special Use Permit); recommending City Council denial of PZ 06-620-01 (General Plan Amendment), PZ 06-630-01 (Specific Plan Amendment); PZ 06-570-02 (Zone Change); PZ 06-300-01 (Tentative Subdivision Map for Tract No. 5672) to allow the construction of 76 single family residences and 125 cluster homes located on the northwest corner of North Ventura Road and West Vineyard Avenue (1801 North Vineyard Avenue, subject to certain conditions; adopt a resolution denying PZ 07-540-03 (Special Use Permit); recommending City Council denial of PZ 07-300-11 (Tentative Subdivision Map for Tract No. 5765); PZ 07-620-04 (General Plan Amendment); PZ 07-630-02 (Specific Plan Amendment); and PZ 07-570-03 (Zone Change) to allow the construction of 143 condominium units, located approximately 1,500 feet north of the intersection of Ventura Road and West Vineyard Avenue (2501 North Ventura Road, subject to certain conditions. The question was called and the motion carried 4-0-2-1, Commissioners Dean and Elliott absent, and Commissioner Pinkard abstaining.

MOTION Chair Sanchez reordered the agenda to move Item F-4 to Item F-1.

E. CONTINUED PUBLIC HEARINGS

F. NEW PUBLIC HEARINGS

1. PLANNING AND ZONING PERMIT NOS. 06-620-03 (General Plan Amendment); 06-570-05 (Zone Change); 06-670-02 (Development Agreement); 06-300-08 (Tentative Subdivision Map); 06-260-01 (Mobile Home Closure Permit); and 08-630-02 (Specific Plan Adoption). The Oxnard Village Specific Plan project involves redevelopment of approximately 64 acres generally located near the northwestern edge of the City of Oxnard, bounded by Highway 101 to the north, Oxnard Boulevard to the east, the Union Pacific Railroad and El Rio Drain to the south, and North Ventura Road to the west. The existing general plan designation is Commercial Regional and the existing zoning designations are General Commercial Planned Development (C-2-PD) and Commercial and Light Manufacturing (CM). New general plan and zoning designations will be created for the project area through the Oxnard Village Specific Plan document. The project is located within the Historic Enhancement and Revitalization of Oxnard (HERO) redevelopment area. The proposed specific plan would allow a maximum of 1,500 residential dwelling units ranging from single-family to high-density housing (up to 25 stories). Approximately 50,400 square feet would accommodate neighborhood serving commercial uses, and 6.3 acres for open space and parks. A transit center and associated parking would also be constructed within the project area. Fifteen percent (15%) or 225 of the total units would be designated on site as "affordable housing" and would be required to meet the City's income criteria for very low, low, and moderate-income families. Approval of a mobile home closure permit is also being requested along with a tenant relocation benefit package. Closure procedures would be consistent with the City of Oxnard's Mobile Home Park Closure Ordinance (Ordinance No. 2097). An environmental impact report (EIR) has been prepared for the proposed project, and certification of Final EIR No. 06-03 will also be considered. Filed by the Daly Group, 31238 Via Colinas, Suite F, Westlake Village, CA 91362.

PROJECT PLANNER: Kathleen Mallory

Contract Planner Mallory stated that the presentation would be streamlined as staff valued the participation of the public; indicated that the translator was present; explained the presentation format; discussed the entitlement permits, project summary, and phasing. She indicated that the Planning Commission would receive input on the Development Agreement; the developer was in continued discussions with Barbara Macri-Ortiz on the mobilehome park closure; and the next steps. She also displayed the vicinity, aerial, General Plan, and zoning maps; site photos; and land use plan.

Mr. Mike Gilketsis discussed the EIR process: impacts and mitigation measures; chronology of the EIR; typos within the alternative section that were corrected in the errata sheet; comments received on the DEIR including 62 letters; levee concerns and FEMA maps; response to the Highway 101 and railroad noise impact concerns; and CEQA alternatives.

Chair Sanchez opened the public testimony.

Mr. Vince Daly presented the specific plan; explained the reason for continuance of the mobilehome park closure; and discussed the affordable housing components; relocation plan; community benefits; memorandum of understanding (MOU) with the Rio School District, including paying the mitigation fees, purchase of six buses, and the District believed the new students could be housed at existing schools.

Mr. Jasch Janowicz discussed the project was within HERO, use of SMART Growth principles; direct access to mass transit; mixed use and high density residential; live/work planning areas; pedestrian connectivity; traffic impacts; transit oriented development; installation of camera system as in the Downtown with possible storefront on site; Parks and Recreation pool would have future use by the public; church use space has been allowed for with interest from a child care group; and lighting at two main entrances. He stated that they had met with Fire and Police to insure all street criteria; they would be purchase fire service vehicles for the high rises; and would pay fees to hire proper staff on an as needed basis.

Mr. Rod Taylor; Mr. Lee Bowman; Mr. Michael Furdek; Ms. Rowla Styles; Ms. Cindy Addison; Mr. Steve Addison; Ms. Barbara Flynn; Mr. David Kerill; Ms. Fran Goble; Ms. Patti Bailey; Mr. Stewart Bailey spoke in favor of the project.

Ms. Barbara Macri-Ortiz discussed the proposed relocation plan indicating they had been negotiating with Cabrillo for three years in screening people for housing they can afford; Community Development Commission (CDC) would provide funds; confident that a deal would be made with the developer and residents; community concern was the lack of parks large enough for soccer fields; would be negotiating with Mr. Daly again on September 22, 2008; and if an agreement was reach, she would encourage the residents to accept it.

Mr. Jose Magana; Mr. Leonardo Heredia; Mr. Roberto Rodriguez; Mr. Rafael Ceja; Mr. Raul Tellez; and Mr. Jose Luis Luna spoke in opposition to the project as they were not being offered enough money to relocate.

Ms. Enedina Rivera spoke in opposition to the project due to the lack of park space.

Mr. Jeffrey Ponting, CRLA, discussed affordable housing; their letter indicating that the City's Housing Element had not been updated; and indicated that they had not received requested information from Redevelopment on affordable housing.

Mr. Stephen Schafer, San Buenaventura Conservancy, stated they were concerned with the preservation of the Wagon Wheel; feasible alternatives exist for restoration and adaptive reuse of historic resources that are included in the EIR; project could be altered to preserve the motel and buildings and still achieve goals and objectives; and the EIR was inadequate as it failed to look at carving out the Wagon Wheel as a separate parcel and preserving that parcel as an alternative.

Mr. Vince Daly stated that he was listening to the residents, and had requested a continuance on the mobilehome park closure to allow time to meet with the residents committee to reach agreement on this emotional issue. He indicated that he would work with Ms. Macri-Ortiz and City staff for the two acre soccer field.

Chair Sanchez closed the public testimony.

RECESS Chair Sanchez called a recess at 9:08 p.m. The meeting reconvened at 9:25 p.m. with all Commissioners present, except Commissioners Dean and Elliott.

Community Development Director Cannon stated that Community Development reviewed the report from CRLA from a fiscal consideration for preservation and determined that the numbers were within industry standards.

Traffic Engineer Samonte stated that the pedestrian crossing at Oxnard Boulevard will be built to 120 feet wide with pedestrian clearance time of 50 seconds required. A pedestrian bridge would be the best alternative.

Mr. Vince Daly explained why they designed the reuse of the bridge connecting Wagon Wheel to the Esplanade, as well as connecting at RiverPark. But, he stated he was okay with a condition restricting pedestrian crossing at other than the proposed crossings.

Senior Planner Williamson gave an overview of the update on the Housing Element, indicating it would be sent to the State in November or December, and would be covered by the General Plan. He also stated that any affordable housing would go toward satisfying the affordable housing requirement.

Discussion ensued regarding including a two acre park on site; concerns with the filtration system; enhancement to the gateway into the City; and concern with historical restoration/preservation in Wagon Wheel including renovation of the restaurant.

MOTION Commissioner Okada moved and Commissioner Pinkard seconded a motion to adopt a resolution certifying Environmental Impact Report No. 06-03; recommend City Council approval of PZ 06-620-03, a General Plan Amendment to change the land use map designation on a 64 acre parcel from Commercial Regional to Specific Plan; recommend City Council approval of PZ 08-630-02, adoption of the Oxnard Village Specific Plan; recommend City Council approval of PZ 06-570-05, a Zone Change to change the zone district from General Commercial, Planned Development and Commercial and Light Manufacturing to Specific Plan for the project located near the northwestern edge of the City of Oxnard, and bounded by Highway 101 to the north, Oxnard Boulevard to the east, the Union Pacific Railroad and El Rio Drain to the south, and North Ventura Road to the west. The question was called and the motion carried 5-0-2, Commissioners Dean and Elliott absent.

2. PLANNING AND ZONING PERMIT NO. 06-550-11(Major Modification to Special Use Permit No. U1010) proposes to amend the existing special use permit to remodel and add approximately 5,000 square feet to an existing church. In February of 2002, the subject request was approved, however the permit expired and re-application was necessary. The site is located at 601 East Bard Road (222-0-266-010). The proposed project is exempt from environmental review under Section 15301 of the CEQA Guidelines. Filed by Port Hueneme Congregation of Jehovah's Witnesses, 601 Bard Road, Oxnard, CA 93033.

PROJECT PLANNER: Juan Martinez

Associate Planner Martinez presented the staff report including discussion of surrounding uses and parking; history of the previously approved Special Use Permit that expired in 2004; and indicated that the applicant requested that condition Nos. 37 and 44 be removed; and condition No. 77 be modified to only pertain to the new building. He indicated that staff agreed to the deletion and modifications to the conditions. He also displayed aerial photos depicting the existing and proposed development; floor plan; site photos; and elevations.

Chair Sanchez opened the public testimony.

Mr. Patrick McIlhenney, architect for the project, gave a brief presentation.

Mr. Cesar Diaz representing the local building committee indicated that he was not of a parking agreement with the school, but stated that there have not been any parking problems in the past.

Chair Sanchez closed the public testimony.

MOTION Commissioner Pinkard moved and Commissioner Frank seconded a motion to adopt a resolution granting PZ 06-550-01, a Major Modification to Special Use Permit No. 1010 to amend the existing Special Use Permit to remodel and add approximately 5,000 square feet to an existing church located at 601 East Bard Road, subject to certain findings and conditions, including the deletion of Condition Nos. 37 and 44, and modification of Condition No. 71. The question was called and the motion carried 5-0-2, Commissioners Dean and Elliott absent.

3. **PLANNING AND ZONING PERMIT NO. 08-670-05 (Development Agreement)**, concerning a 31-acre site with an approved specific plan and tentative subdivision map, bounded by Rose Avenue, First Street, Marquita Street and Del Sol Park. The specific plan calls for the development of 260 replacement units for an existing public housing project, 101 parcels of for-sale single family detached units, 60 units of for-sale attached units, and 80 units of new affordable rental units. An environmental impact report (EIR) has been certified for the specific plan project and the proposed project is consistent with the certified Final EIR. The project is being developed jointly by the Oxnard Housing Authority and Steadfast Properties LLC. The site is owned by the Oxnard Housing Authority.
PROJECT PLANNER: James Rupp

Assistant City Attorney Rupp explained that the government code states that a public hearing must be held and public comments must be taken.

Chair Sanchez opened the public testimony. No comments were received and the public testimony was closed.

4. **PLANNING AND ZONING PERMIT NO. 08-670-03 (Development Agreement)** a request for a Development Agreement for a vested right to develop approximately 4.23 acres according to the RiverPark Specific Plan, located southwesterly of the intersection of North Ventura Road and Town Center Drive, within the RiverPark Specific Plan Area (APNs: 132-0-100-085 and 132-0-100-095). An environmental impact report (EIR) has been certified for the RiverPark Specific Plan and the proposed project is consistent with the certified Final EIR. Filed by Oxnard Development Co., LLC, 199 Figueroa Street, Suite 100, Ventura CA 93001.
PROJECT PLANNER: Matthew Winegar

Development Services Director Winegar presented the staff report including the history of the surrounding parcels; the purpose of the Development Agreement; the median on Ventura Road must be upgraded to bring the two parcels on par with the other parcels within the development; and indicated that it was not covered by the RiverPark Specific Plan. He also displayed an aerial view of the parcel and the location map.

Chair Sanchez opened the public testimony. No comments were received and the public testimony was closed.

G. PLANNING COMMISSION BUSINESS

H. PLANNING MANAGER COMMENTS

Senior Planner Williamson discussed the update of the Housing Element.

I. ADJOURNMENT

At 10:28 p.m., Commissioner Sanchez moved and Commissioner Okada seconded a motion to adjourn. The motion carried 5-0-2, Commissioners Dean and Elliott absent.

Michael Sanchez, Chairman

ATTEST: _____
Christopher Williamson, Secretary

CITY OF OXNARD
CITY CLERK

08 OCT -6 PM 5:41

**PLEASE PROVIDE AN ORIGINAL AND 2 COPIES
A \$500 FEE MUST ACCOMPANY THIS APPEAL**

TO: Oxnard City Clerk

NOTICE OF APPEAL
(from member of the public)

I, SAN BUENAVENTURA CONSERVANCY, am aggrieved or directly affected by
(name of person filing appeal)

and appeal the SEPT 18, 2008 decision from the Planning Commission regarding Project No.
(date of PC meeting)

EIR # 06-04, more particularly described as follows:

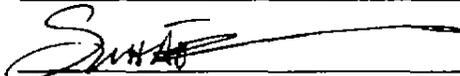
THE OXNARD VILLAGE SPECIFIC PLAN FEIR

The grounds for appeal are:

SEE ATTACHED LETTER DATED 10-6-08

I request the following relief:

APPEAL TO CITY COUNCIL - SEE LETTER


(signature)

Date: 10/6/08

STEPHEN SCHAFER, PRESIDENT, SAN BUENAVENTURA CONSERVANCY

P.O. BOX 24218 VENTURA, CA 93002 / 805.652-1000
(address)

cc: City Attorney
Project Planner
Development Services Department
Applicant



WWW.SBCONSERVANCY.ORG

!!!

10-6-2008

Honorable Mayor Dr. Thomas E. Holden and Members of the City Council
305 West Third St. Oxnard, CA 93030

Re: Appeal of FEIR for OXNARD VILLAGE SPECIFIC PLAN PROJECT - EIR #06-04

Dear Mayor Holden and Councilmembers:

The San Buenaventura Conservancy wishes to appeal the certification of the Oxnard Village Specific Plan Project Final Environmental Impact Report (FEIR) to the City Council based on inadequacy of the EIR and Insufficient findings for a Statement of Overriding Considerations (SOC). Both these concerns were presented to the Oxnard Planning Commission at its meeting on September 18, 2008.

The Wagon Wheel Motel & Buildings (Motel, Office, Restaurant, El Ranchito) are historic resources. The SOC certified by the Commission on September 18, 2008, would allow the demolition of these historic resources (a Class 1 impact). The SOC findings were based upon a claimed inability of alternatives or a "Modified Project" to meet the goals and objectives of the Project as provided in sections 2.4.2 and 2.5 of the FEIR. However, it is improper for a Statement of Overriding Considerations to be adopted if there are feasible alternatives that would meet most of the goals of the project. There are a number of recent legal cases that make this clear: Preservation Action Council v. City of San Jose, Uphold Our Heritage v. Town of Woodside, and Architectural Heritage Association v. County of Monterey. Just because the Project would be less profitable if the Wagon Wheel Motel & Buildings were preserved, does not make such an option infeasible or their destruction acceptable; all projects would be more profitable if their environmental impacts did not need to be considered or mitigated.

The Conservancy contends that – despite substantial comment regarding the Historic Resources in the Draft EIR – the FEIR did not adequately explore mitigating the impacts to the Wagon Wheel Motel & Buildings through a "Modified Project" and/or explore a feasible alternative that would carve out a parcel around the retained historic resources while allowing the remainder of the Project to be fully developed.

The Conservancy believes the best solution to the Class 1 impact would be a Project that allows for full development of the majority of the site but retains the restored Wagon Wheel Motel & Buildings in their historic location. This would allow a proverbial win-win Project. It has not been shown that the Project would be financially infeasible on approximately 60 acres rather than 64, what the Conservancy suggests as a "PROJECT MINUS HISTORIC BUILDINGS" alternative. Without consideration of this alternative, the EIR has failed to consider a reasonable range of alternatives.

The San Buenaventura Conservancy believes that careful preservation-in-place and adaptive re-use of the Wagon Wheel will enhance the remainder of the Oxnard Village Specific Plan and make it more viable, profitable, and successful, while respecting our heritage and the memory of Martin V. Smith. Compliance with CEQA will then be achieved.

The Wagon Wheel should be preserved as a legacy for future generations.

San Buenaventura Conservancy
Board of Directors

Contact:
Stephen Schafer, President
PO Box 24218
Ventura CA, 93002
Phone: 805-652-1000
E-mail: sbconservancy@mac.com

ATTACHMENT 4

FINAL EIR PROVIDED UNDER SEPARTE COVER

ATTACHMENT 5
FINAL EIR NO. 06-03

**Ventura County Cultural Heritage Board
Certificate of Environmental Review No. 2008-254
Wagon Wheel, Oxnard**

Action Date: June 23, 2008

Applicant: Mr. Vince Daly

Project: Environmental Impact Report: Demolish Buildings/Pending General Plan and Specific Plan Amendment, Development Agreement, Subdivision, etc. (**Exhibit 1**)

Finding: The environmental impact report was reviewed and the Board made the following findings:

1. Confirmed once again that the site is historically significant, expanding the site to include the bowling alley.
2. The Board further found that the demolition of the buildings on the site would have an adverse effect on the historic resource and,
3. That the impact could be only mitigated by the following measure:

Rehabilitate on site through adaptive re use the Wagon Wheel Restaurant and Motel Office building.

By order of the Ventura County Cultural Heritage Board

Kim Hocking
Staff

Memorandum

October 27, 2008

To: City of Oxnard Planning Department, c/o Kathleen Mallory
From: Jasch Janowicz, Oxnard Village Investments, LLC
Re: San Buenaventura Conservancy Appeal of The Village Specific Plan EIR
Certification

Introduction

On October 6, 2008, the San Buenaventura Conservancy (Conservancy) formally appealed the City of Oxnard Planning Commission's decision to certify the Draft and Final Environmental Impact Report (EIR) prepared for The Village Specific Plan. The justification for this appeal was that the FEIR "did not adequately explore mitigating the impacts to the Wagon Wheel Motel and Buildings through a "Modified Project" and/or explore a feasible alternative that would carve out a parcel around the retained historic resources while allowing the remainder of the Project to be fully developed." The Conservancy goes on to say that they believe the best solution to the Class I impact would be a Project that allows for full development of the majority of the site but retains the restored Wagon Wheel Motel and Buildings in their historic location and that it has not been shown that the Project would be financially infeasible on approximately 60 acres rather than 64, which the Conservancy suggests as a "Project Minus Historic Buildings" alternative.

Summary

This memorandum addresses the financial feasibility of the "Project Minus Historic Buildings" alternative as described by the San Buenaventura Conservancy. This alternative would reduce the total residential dwelling count from 1,500 to 1,400 units, would increase the cost of developing the subject property, and would not include any significant revenue generating development that could offset the loss in revenue from the reduction in 100 residential units. As explained below, the increased costs and loss of revenue would render the "Project Minus Historic Buildings" alternative financially infeasible to develop.

ATTACHMENT 7
PAGE 1 OF 5

000180

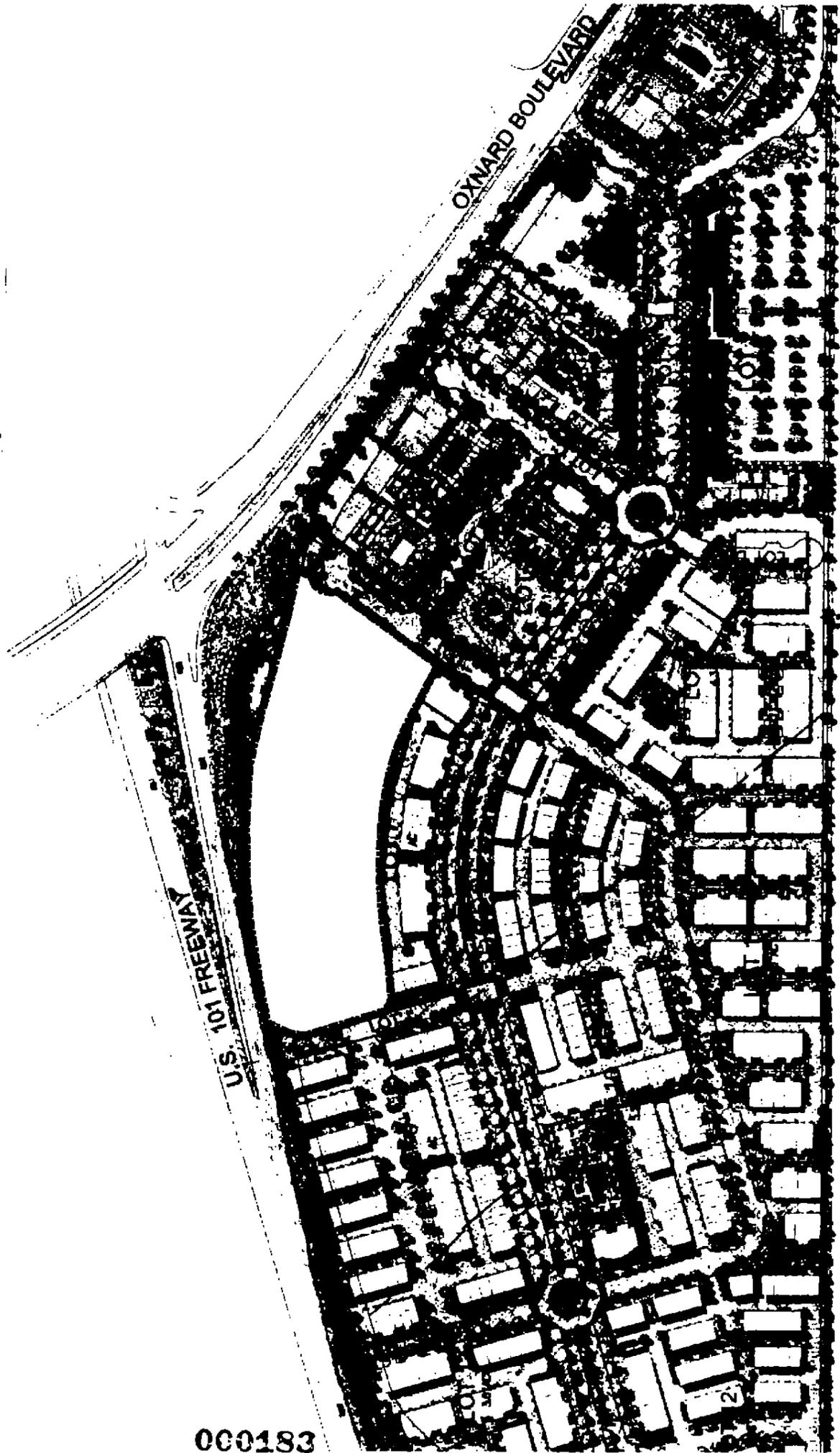
Analysis

As shown on the confidential/trade secret pro forma attached hereto, the proposed project (Scenario #1) is anticipated to generate a total gross revenue of \$125,564,000 (based upon conservative estimates of current real-estate market values). Note that the total costs of the project (land costs, infrastructure improvement costs, permit fees, interest and overhead) have increased due to recent regional infrastructure improvement requirements placed upon the project, which are now reflected in a total site improvement cost of \$120,302,867.

As shown on the confidential/trade secret pro forma (Scenario #2) and Figure 1 attached hereto, the "Project Minus Historic Buildings" Alternative shows that preservation of the Wagon Wheel Motel/Restaurant would result in the removal of approximately 100 residential dwellings (townhouses) from the proposed project within an approximate area of 5.15 acres. Thus, a total of 1,400 residential dwellings were analyzed in this development scenario. The total gross revenue for Scenario #2 (Project Minus Historic Buildings Alternative) is \$115,564,000. The reduction of approximately \$10,000,000 in gross revenue under this alternative is attributed to the reduction of 100 residential dwellings valued at \$100,000 per finished lot.

The total costs for this scenario increased to \$128,083,467 due to addition of the renovation costs for the motel/restaurant. The renovation cost of \$7,780,600 was taken directly from the Economic and Market Assessment of Adaptive Reuse Potential for Three Properties on Wagon Wheel Site prepared by Economics Research Associates and Pat McCarthy Construction, dated August 19, 2008. Taking into account the anticipated costs and revenues, this alternative would result in a project **loss** of \$ 12,519,467. Accordingly, developing the "Project Minus Historic Buildings" alternative would be infeasible, as no developer would invest in excess of \$100 million, in order to lose approximately \$12 million.

Although you are authorized to disclose this Memorandum to the City Council, as well as to any members of the public who request to review it, we ask that you not disclose the confidential/trade secret pro-formas attached hereto, other than to Planning Commissioners, City Council Members, and the Community Development Commission. Pursuant to Public Resources Code Section 21160, the attached confidential trade secret information may be reviewed and relied upon by the public agency without disclosing the information to the general public.



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UNION PACIFIC RAILROAD

