



**CITY OF SANTA MARIA
PLANNING COMMISSION
MINUTES FOR REGULAR MEETING OF
APRIL 5, 2006**



Vice-Chair Etta Waterfield called the meeting to order at 6:30 p.m.

MEMBERS PRESENT: Commissioners Lawnae Hunter, Michael W. Moats, Rodger Brown, and Vice-Chair Etta Waterfield.

MEMBER ABSENT: Chair John Everett.

STAFF PRESENT: Planning Division Manager – Peggy Woods
Deputy City Attorney – Wendy Stockton
Senior Civil Engineer – Rodger Olds
Planner III – Benjamin Kimball, Bill Shipsey
Recording Secretary – Kathleen Villegas

PUBLIC COMMENT PERIOD: There was no one present who wished to comment.

ITEM 1 – CONSENT CALENDAR: The consent calendar is approved with one motion.

VOTE: Ayes-Commissioners Hunter, Moats, Brown, and Vice-Chair Waterfield; Noes-None; Absent-Chair Everett; None; Abstained-None.

- a. **TENTATIVE TRACT MAP FOR WESTFIELD AT PACIFIC CREST, LOCATED ON THE EAST SIDE OF BLOSSER ROAD BETWEEN SONYA LANE AND BATTLES ROAD, TRACT 5899.** Review of a tentative tract map that would create 128 condominium lots in a PD/R-3 zoning district, Assessor’s Parcel No. 118-005-001. The Environmental Impacts of the project were adequately addressed in the Environmental Impact Report prepared for the Blosser-Southeast Specific Plan, Sphere of Influence Study and Concurrent Annexation. (Project Planner: Benjamin A. Kimball)

STAFF RECOMMENDATION: By motion, that the Planning Commission continue the Westfield at Pacific Crest, Tentative Tract Map to the April 19, 2006 public hearing.

ACTION: By motion, continued this item to the April 19, 2006 public hearing.

- b. **PLANNED DEVELOPMENT PERMIT FOR WESTFIELD AT PACIFIC CREST, LOCATED ON THE EAST SIDE OF BLOSSER ROAD BETWEEN SONYA LANE AND BATTLES ROAD, PD-2005-014, E-2005-048.** Review of a Planned Development Permit application that would create 128 condominium lots in a

PD/R-3 zoning district, Assessor's Parcel No. 118-005-001. The environmental impacts of the project were adequately addressed in the Environmental Impact Report prepared for the Blosser-Southeast Specific Plan, Sphere of Influence Study and Concurrent Annexation. (Project Planner: Benjamin A. Kimball)

STAFF RECOMMENDATION: By motion, that the Planning Commission continue the Westfield at Pacific Crest, Planned Development Permit to the April 19, 2006 public hearing.

ACTION: By motion, continued this item to the April 19, 2006 public hearing.

- c. **TENTATIVE TRACT MAP FOR MATTEI'S LANDING, LOCATED AT THE SOUTHWEST CORNER OF BLOSSER ROAD/LA BREA AVE AND BLOSSER ROAD/BATTLES, TRACT 5864.** Review of a tentative tract map that would create 374 mobile home lots and 3 common lots on a 58.8 acre lot. The zoning of the site is PD/RMH (Planned Development/Residential Mobile Home). Assessor's Parcel No. 117-240-006. The project has been reviewed in a Supplemental Environmental Impact Report (E-2003-022). No further environmental review is required. (Project Planner: Brian Halvorson)

STAFF RECOMMENDATION: By motion, that the Planning Commission continue the Mattei's Landing Tentative Tract Map to the April 19, 2006 public hearing.

ACTION: By motion, continued this item to the April 19, 2006 public hearing.

- d. **PLANNED DEVELOPMENT PERMIT FOR MATTEI'S LANDING, LOCATED AT THE SOUTHWEST CORNER OF BLOSSER ROAD/LA BREA AVE AND BLOSSER ROAD/BATTLES ROAD, PD-2005-017, E-2005-050.** Review of a Planned Development permit to allow 374 Mobile Home Units located in a PD/RMH (Planned Development/Residential Mobile Home) zone. Assessor's Parcel No. 117-240-006. The project has been previously reviewed in a Supplemental Environmental Impact Report (E-2003-022). No further environmental review is required. (Project Planner: Brian Halvorson)

STAFF RECOMMENDATION: By motion, that the Planning Commission continue the Mattei's Landing Planned Development Permit to the April 19, 2006 public hearing.

ACTION: By motion, continued this item to the April 19, 2006 public hearing.

- e. **PLANNED DEVELOPMENT PERMIT FOR PARKLAND COTTAGES (MCCOY SENIOR RESIDENCES) FOR A 21 UNIT SENIOR HOUSING PROJECT, 500 BLOCK WEST MCCOY AVENUE, PD-2005-018, E-2004-058.** Review of a Planned Development Permit to allow the construction of 21 Senior Residences in a PD/R-3 (Planned Development/High Density Residential) zoning district, Assessor's Parcel Nos. 111-640-002, -003. The project is a Class 32 Categorical Exemption. (Project Planner: Benjamin Kimball)

STAFF RECOMMENDATION: By motion, that the Planning Commission continue the Parkland Cottages Planned Development Permit to the May 17, 2006 public hearing.

ACTION: By motion, continued this item to the May 17, 2006 public hearing.

- f. **ZONING ORDINANCE TEXT AMENDMENT RELATING TO THE REGULATION OF BARBECUES, APPLICABLE THROUGHOUT THE CITY OF SANTA MARIA, Z-2005-003, E-2005-082.** Review of recommendations to the City Council regarding a negative declaration, E-2005-082, and amending Title 12 of the City's Municipal Code (Zoning Regulations) relating to the regulation fundraising barbecues. (Project Planner: Bill Shipsey)

STAFF RECOMMENDATION: By motion, that the Planning Commission continue the Zoning Ordinance Text Amendment (barbecue) to the April 19, 2006 public hearing.

ACTION: By motion, continued this item to the April 19, 2006 public hearing.

- g. **REQUEST FOR A ONE YEAR TIME EXTENSION FOR A PLANNED DEVELOPMENT PERMIT APPLICATION FOR THE SANTA MARIA FREEWAY CENTER, LOCATED AT 1000 E. BETTERAVIA ROAD, PD-2002-020, E-2002-041.** Review of a one year time extension for a Planned Development permit application to allow the construction of a 10,578 square foot sit down restaurant with arcade, one drive-thru restaurant, one gas station and one sit-down restaurant pad in a PD/FS zoning district, Assessor's Parcel Nos.: 128-136-008, -009. (Project Planner: Brian Halvorson)

STAFF RECOMMENDATION: By motion, that the Planning Commission grant a one year extension of time to Santa Maria Freeway Center, PD-2002-020.

ACTION: By motion, approved the extension of time for one year.

PUBLIC HEARINGS:

ITEM 2 – TENTATIVE PARCEL MAP FOR ADAM BUSINESS PARK, LOCATED AT 222 EAST DONOVAN ROAD, TRACT 5887. Review of a tentative parcel map that would create 2 commercial lots in a PD/CC zoning district, Assessor's Parcel No. 121-012-001. The project is a Class 15 categorical exemption from the California Environmental Quality Act. (Project Planner: Benjamin A. Kimball)

ACTION: By motion, continued this item to the May 17, 2006 public hearing.

VOTE: Ayes-Commissioners Hunter, Moats, Brown, and Vice-Chair Waterfield; Noes-None; Absent-Chair Everett; Abstained-None.

Benjamin Kimball presented the staff report. The project is an application for a tentative subdivision map for the Adam Business Park located at 222 East Donovan Road. It is located in a PD/CC zoning district. The location is the southwest corner of East Donovan and North Miller, also bounded by McClelland Avenue. The proposal is to divide one large parcel almost down the middle to create two large commercial lots. These proposed lots do meet zoning standards for size, shape and access. At the March 23, 2006 study session, the Commission requested that a condition be placed upon this application that provides permanent landscape maintenance. Attachment B in the conditions on the pink sheets outlines the conditions from the Recreation & Parks Department, numbers 13-15, requiring the property be annexed into the northeast landscape maintenance district for permanent landscape maintenance. Staff believes that this would be adequate to ensure that the landscape be maintained at this site. Attachment D, condition 4, specifies that all landscaping within the existing planters be

upgraded and fully maintained prior to recordation of the map. Staff believes that the landscaping will be brought up to a high standard and maintained with these conditions. The project meets all the City's requirements and staff recommends approval by adopting the attached draft resolution.

Commissioner Brown asked if any plans are in place to improve the existing building.

Benjamin Kimball responded that there are no plans at this time to do any kind of physical construction on the buildings, whether new construction or remodeling.

Commissioner Brown commented that the site is an eyesore and is not maintained. He asked if there is any way to get some improvements in conjunction with this application. He also inquired as to how much signage is allowed in windows, since there seems to be a lot on this site.

Vice-Chair Waterfield asked for clarification that the parcel map only deals with the ground and not the building.

Benjamin Kimball responded that there are times when projects can combine both things, lot divisions and construction, but that is not the case with this project. However, there have been some conditions included to upgrade the landscaping.

Commissioner Brown commented that the parking lot is not paved and a mess and the signs in the windows are in excess of the code. This site historically has not looked nice. This may be a time that we can ask for something to be done to clean up the site.

Wendy Stockton informed the Commissioners that the carpet remnants in the back of the building have been turned over to Code Compliance and is being addressed.

Rodger Olds responded to Commissioner Hunter's question for clarification concerning the April 5, 2006, memo from Engineering regarding two additional conditions to repair broken sidewalks.

Commissioner Moats asked staff if a landscaping plan was in place.

Benjamin Kimball responded that there are no new areas for landscaping at this time, just areas to be replanted, but when the area is developed, more landscaping will be added.

In response to Commissioner Brown's question, Benjamin Kimball responded that the percentage of landscaping required when this site was built may have been different than today's standards.

Commissioner Moats commented on the graffiti on the building, and also commented on perhaps having a slatted fence to hide the carpet remnants that are behind the building.

Wendy Stockton informed the Commissioners that conditions are in place for G&S Carpet, and they are in the enforcement stage now. It is unusual to put conditions on a lot split.

Commissioner Brown asked if it was possible to continue this project until there is some kind of agreement between the tenant and owner as to the care of the site.

Wendy Stockton responded that the Planning Commission has full authority to continue this item if the Commission needs more information.

Commissioner Moats commented that it seemed that the Commission has some leverage in order to effect some improvements on the site.

Commissioner Hunter stated that she would like to see the planned development permit conditions to review along with this request.

Vice-Chair Waterfield summarized that it was the pleasure of the Commission to not approve this lot split at this time and continue it.

John Adam, Jr., the applicant and owner of the property, spoke to the Commission. The family would like to do something with the property, and it has taken a long time. They are dealing with a vandalism problem on the site, and the police are helping them with it. He commented on the lack of screening, and the bus stop on the east side of the property obstructing the alley exit. He also spoke on the landscaping and the visibility. For financing reasons, they would like to split the lot and then work on the various issues. He also stated that it has been a year since they submitted their request for this split to occur.

Vice-Chair Waterfield asked staff if a year is a normal amount of time for this type of application.

Peggy Woods responded that it usually takes 3-4 months, assuming that it goes on a subdivision committee meeting and then on to a Planning Commission meeting.

Vice-Chair Waterfield stated she understood the applicant's plight, but argued the point that the site really needs to be cleaned up and not be an eyesore to the City. The Commission would like to see the planned development permit with G&S Carpet to make sure they are accountable.

Vice-Chair Waterfield closed the public hearing. Commissioner Hunter made a motion to continue the item to the May 17, 2006, Planning Commission meeting. Commissioner Brown seconded the motion and it was carried with a vote of 4-0, with Commissioner Everett absent.

ITEM 3 - CONDITIONAL USE PERMIT FOR OUTDOOR STORAGE FOR ABC SUPPLY CO. AT 700 WEST BOONE STREET, U-2005-045, E-2004-31. Review of a Conditional Use permit to allow outdoor storage on a vacant lot, located in a CM (Commercial/Manufacturing) zoning district, Assessor's Parcel No. 123-121-003. The project is categorically exempt from CEQA. No further environmental review is required. (Project Planner: Benjamin A. Kimball)

ACTION: By motion, approved subject to the conditions as outlined in the Preliminary Draft of the Conditional Use Permit.

VOTE: Ayes-Commissioners Hunter, Moats, Brown, and Vice-Chair Waterfield; Noes-None; Absent-Chair Everett; None; Abstained-None.

Benjamin Kimball presented the staff report. The project is a conditional use permit for outdoor storage for ABC Supply Co. at 700 West Boone Street, in a CM (Commercial/Manufacturing) zoning district, on a lot that is currently undeveloped. The proposal includes a perimeter chainlink fence with brown vinyl slats, recessed from the property lines. The project includes paving the interior of the site, and perimeter landscaping between the fence and the sidewalk. During the planning commission study session, the Planning Commission requested that this site be adequately screened. Due to this request, a new condition has been added in the special conditions of approval for the site: 1) the landscaping will be appropriately selected for California climate zones; 2) the landscaping will be substantial in that it will include large canopy trees and vertical landscaping such as vines and shrubs that serve the purpose of screening the proposed fencing; 3) the fencing and slats will be maintained and replaced if damaged or worn, and 4) vehicle stop blocks or other type of curbing be installed to prevent vehicles from backing into or colliding with the fence. Staff believes with these conditions that the site will be adequately screened and protected and meet all of the zoning regulations. The perimeter fence is being proposed at eight feet in height. Staff is available to answer any questions.

Commissioner Brown asked staff if there is a height limit condition for what can be stored behind the screening fence.

Benjamin Kimball responded that concern is addressed on the goldenrod sheets, page 7 of the conditions of approval, condition 13, last sentence—"no storage shall be visible above the fence."

Benjamin Kimball responded to Commissioner Moats' inquiry that no complaints have been received concerning this site.

Commissioner Moats wondered why the applicant is going to all this expense to continue doing what they've already been doing.

The applicant, Dave McBrian, 8833 North Colfax Avenue, Fresno, California, responded to Commissioner Moats' question by stating that they have problems at that site with parking, storage, the forklifts getting stuck in the mud. This project will give them a better facility to unload vehicles, load vehicles, and store materials without damaging the product.

Commissioner Brown complimented the applicant on the project, saying that it will be a big improvement over what's there.

Vice-Chair Waterfield closed the public hearing and called for a motion. Commissioner Brown made a motion to approve the conditional use permit for outdoor storage for ABC Supply Co., 700 West Boone Street, U-2005-045, E-2004-031, subject to the conditions as outlined in the preliminary draft. Commissioner Moats seconded the motion, and it passed. Vote: 4-0 with Commissioner Everett absent.

ITEM 4 - PLANNED DEVELOPMENT PERMIT FOR KAMAL PETROLEUM FOR A NEW COMMERCIAL BUILDING LOCATED AT 1606 N BROADWAY, PD-2005-001, E-2004-059.

Review of a Mitigated Negative Declaration and a Planned Development Permit to allow a new 2,576 square foot mini-mart, a one-car service bay, a 1,040 square foot caretaker unit, a 970 square foot single bay car wash, parking, and landscaping located in a PD/C-2 (Planned Development/General Commercial) zoning district, Assessor's Parcel Number 117-510-009. (Project Planner: Benjamin A. Kimball)

ACTION: By motion, approved subject to the conditions as outlined in the Preliminary Draft of the Planned Development Permit as amended. Vote: 4-0.

VOTE: Ayes-Commissioners Hunter, Moats, Brown, and Vice-Chair Waterfield; Noes-None; Absent-Chair Everett; None; Abstained-None.

Benjamin Kimball presented the staff report. The projects consists of a new 2,576 square foot mini-mart, a one-car service bay, a 1,040 square foot caretaker unit, a 970 square foot single bay car wash, parking and landscaping in a PD/C-2 zoning district. The new site plan presented tonight is showing cars to scale and the parking spaces available. The proposal is very similar to the others in the City in regard to parking, lot size, and the like. A comparison was made of the similar sites, indicating the number of cars waiting for the various services at different times of the day and different days of the week. Staff recommends authorizing the filing of a mitigated negative declaration and approving the project subject to the conditions as outlined in the preliminary draft of the Planned Development Permit, and is available for questions.

In response to Commissioner Brown's inquiry, Benjamin Kimball responded that the building to the east of the car wash is a commercial site, so there are no sensitive receivers to any noise.

Michael Maglinte, Tom Martinez & Associates, was present representing the applicant. He commented that the parking on site is above the requirement.

Mr. Maglinte responded to Commissioner Moats' question that yes, the property owners around the site were notified of the project.

Commissioner Brown inquired about the handicapped parking stalls and the fact that there are two.

Benjamin Kimball responded that the parking calculation for handicapped parking is 1 per 25, so what they have is okay.

Vice-Chair Waterfield commented on the small size of the lot and having so much going on it.

Commissioner Moats responded to Vice-Chair Waterfield's concern by asking staff how that concern can be addressed, and if enough parking had been supplied on the site.

Benjamin Kimball responded that he would leave that to the applicant to convince them.

Commissioner Hunter spoke of her concern regarding the repair bay.

The applicant, Nick Patel, addressed the Commission. He stated that this is not a major repair center. There is already a repair bay on the site, and they cater to small repairs, such as oil changes, tire changes, and that sort of thing.

The Commissioners and the applicant discussed gas delivery times.

Tom Martinez, architect for the site, proposed the wording that "every reasonable attempt will be made to accept delivery between 11 p.m. and 5 a.m."

Commissioner Hunter asked if a condition could be included concerning the repair bay, something to come back to in case it operates differently than the Commission wants.

Wendy Stockton responded that if a condition is made and it is not fulfilled, then it can be brought back before the Planning Commission for modification. That is in the code. She offered some additional wording to Community Development Department special condition 4-A: "Service bay operation shall be limited to oil changes, tire changes, and smog testing and repair, on operative vehicles only and by appointment only. No vehicles receiving repairs shall remain overnight on the site." To correspond with that, standard condition 22 would be revised to read: "The storage of dismantled or inoperable vehicles is prohibited."

Commissioner Hunter expressed reluctance to tie the applicant's hands that much. She had in mind if more repair is going on, or cars are being stored on the site, or stacking too much, she would hesitate to put that much restriction on the site.

Wendy Stockton suggested "and similar repairs" being added to the condition.

Commissioner Brown suggested removing “by appointment only.”

Commissioner Hunter spoke again on the conditions on the service bay.

Wendy Stockton commented that standard condition 22 prohibits storage of dismantled or inoperable vehicles in excess of 30 days. That is a standard condition.

Vice-Chair Waterfield agreed that vehicles should not be stored on the site overnight.

Commissioner Moats asked the applicant what conditions he would agree with.

Nick Patel responded that the “by appointment only” should be taken out, because sometimes a repair can be made right away without an appointment. Not leaving vehicles for 30 days is too long for him. But suppose a repair is being made and then a part needs to be ordered. The car should be able to stay inside the bay overnight until the repair is completed.

Wendy Stockton stated that the word “exterior” could be included in the new condition, to state: “Operation of service bay. Service bay operation shall be limited to oil changes, tire changes and smog testing and repair, and similar repairs, on operative vehicles only.” Also, standard condition 22 hereby revised to read, “The exterior overnight storage of dismantled or inoperative vehicles is prohibited.” Addressing the point about deliveries of gasoline, “The applicant shall use best efforts to obtain gasoline deliveries between the hours of 10:00 p.m. and 6:00 a.m.”

Rodger Olds, of the Engineering Division, referred to a memo he distributed to the Commission clarifying a couple of conditions that were incorrect from his department.

Nick Patel commented on the length of time this process has taken to get his project before the Planning Commission.

Vice-Chair Waterfield closed the public hearing, and asked for a motion. Commissioner Brown made a motion to approve the planned development permit for Kamal Petroleum for a new commercial building located at 1606 North Broadway, PD-2005-001, E-2004-059, subject to the conditions as outlined in the preliminary draft, and the conditions as read into the record by Wendy Stockton: Community Development Department special condition 4-A is hereby added to PD-2005-001 to read as follows: “Operation of service bay. Service bay operation shall be limited to oil changes, tire changes and smog testing and repair, and similar repairs, on operative vehicles only.” Community Development Department special condition 4-B is hereby added to PD-2005-001 to read as follows: “Deliveries of gasoline. The applicant shall use best efforts to obtain gasoline deliveries between the hours of 10:00 p.m. and 6:00 a.m.”

Also, standard condition 22 hereby revised to read, “Dismantled vehicles. The repair or exterior overnight storage of dismantled or inoperative vehicles is prohibited.” Also included are the corrections listed in the memo from the Engineering Division. Commissioner Hunter seconded the motion, and it was carried. Vote: 4-0 with Commissioner Everett absent.

The Planning Commission took a 2 minute recess.

ITEM 5 - TENTATIVE TRACT MAP FOR THE WEST "A" STREET BUSINESS CENTER TO CREATE INDUSTRIAL LOTS LOCATED AT 1503 "A" STREET, TRACT 5879, E-2005-060.

Review of mitigated negative declaration of environmental impact and tentative map to create 34 building lots ranging in size from 9,900 to 35,377 square feet and one 13,675 square foot retardation basin lot. Access to the property would be via "A" Street and West Betteravia Road with interior lots accessed from private streets. The property is in a PD/CM (Planned Development/ Commercial Manufacturing) zoning district, Assessor's Parcel No. 111-040-004. (Project Planner: Bill Shipsey)

ACTION: By motion, continued this item to the April 19, 2006 public hearing. Vote: 4-0, with Commissioner Everett absent.

This item was considered concurrently with Item 6.

ITEM 6 - PLANNED DEVELOPMENT PERMIT FOR WEST "A" STREET BUSINESS CENTER FOR AN INDUSTRIAL BUILDING COMPLEX, LOCATED AT 1503 "A" STREET, PD-2005-024, E-2005-060.

Review of a Planned Development Permit to allow the construction of an industrial project with 34 separate businesses ranging in size from 3,229 square feet to 10,971 square feet in a PD/CM (Planned Development/Commercial Manufacturing) zoning district, Assessor's Parcel No. 111-040-004. (Project Planner: Bill Shipsey)

ACTION: By motion, continued this item to the April 19, 2006 public hearing. Vote: 4-0 with Commissioner Everett.

Bill Shipsey presented the staff report for both items 5 and 6 together at the request of the applicant. The first part is the tentative map application, and the applicant is requesting to reduce the width of the lot and the area of the lot under the planned development permit. The project site is on the west side of "A" Street, south of Betteravia Road. The site plan shows the proposed small width lots, ranging from 9,900 square feet to approximately 14,000 square feet. Some are close to meeting the 15,000 square foot minimum, but some are only about 2/3 the minimum lot size. Under the PD, this is permitted at the discretion of the Planning Commission. The present zoning of the property is PD/CM. One lot facing West Betteravia Road would be permitted commercial uses under the mixed use ordinance. That C-2 building would be within the guidelines of the 50% of the entire project area, designated specifically as a mixed-use building. The site is 12.71 acres. On page 8 of the goldenrod sheets, item 6, the applicant has requested the addition of the warehouse parking standard, which is one parking space per 1,040 square feet of warehouse space. On the same page (8), item 5, the 15% landscaping requirement does not work for each lot, but can work for the entire site. The revision is to treat the whole site under the 15% landscape requirement: "Note that the landscaped areas for the subdivision shall be considered as a whole project and individual parcels may not attain landscape standards." Another clarification on page 10, item 16, the applicant has expressed a desire to have flexibility in the size of the fencing. The Community Development Department has the authority in this condition to approve a maximum of 8 feet in height for the fencing. The last correction is that since the writing of the report, the owner of record on item 5, page 2 of the cover sheet, is no longer Richard Scarsdigh; it is Richard Meyer, "A" Street Business Center, LLC.

The process for this application requires that the Planning Commission adopt a mitigated negative declaration for the project. Some issues have been raised, and Wendy Stockton can further elaborate on those issues.

Wendy Stockton addressed the Planning Commission, telling them that these two applications did have their environmental review and mitigated negative declaration prepared. She reviewed the memo she presented to the Commission point by point. When the mitigated negative declaration and initial study were first prepared, no environmental issues concerning biological resources were identified at the staff level. Later, a letter was received from a biologist at Fish and Game stating that he believed from his research and a visit to the site and his professional credentials that there were biological issues, and several were identified. In response, the City hired a consultant to verify or not verify these findings, and that consultant biologist prepared a survey. Another response was received from State Fish and Game Monday of this week, and the consultant biologist prepared some additional material. This causes some legal concern with approving the plan tonight; hence, staff recommends that this item be continued to allow time for additional findings to be made, and an Environmental Impact Report to be created. At this time, the Planning Commission does not have the evidence necessary to determine whether or not an EIR is necessary. The expert hired by the City is not finished with his findings.

Bill Shipsey responded to Commissioner Brown's question by stating that the Commission has seen this project a couple of times—the first time was the general plan amendment and zone change prior to acquisition by LLC Business Center, and also when the zoning text amendment came through, and now the tentative map and planned development permit are being considered, the next step in the process.

Gordon Gill, 1010 S. Broadway, Santa Maria, was present representing the applicant. Also present was a biologist from Sierra Delta Corporation, hired by the City, who has completed several surveys on the project site. A portion of their report is in the staff report. In response to Commissioner Brown's question, Mr. Gill stated that this project was rezoned some time ago with a negative declaration approved for the site prior to Mr. Meyer acquiring the site, and they came back to the Commission with a change of the approved uses that could go into the property. He also said that it was important for the Commission to hear from the biologist. He asked the Commission to take a serious look at the findings of the biologist so that a decision could be reached at the meeting.

Robb Eidemiller, President and CEO of Sierra Delta Corporation, 935 Riverside Avenue, Paso Robles, California, was present. With him was the project manager, Cletis England. Mr. Eidemiller gave the Commission a chronology of events and a strategy that they employed to make this process run efficiently. He spoke about the three items that the California Department of Fish and Game brought to their attention, one being a storm water drainage area, about 1800 square feet, and the biological component associated with that, frogs and an endangered plant. He explained about the US Fish and Wildlife (USF&W) protocol requirements, and that the agency has a period of time to respond to the letter. The protocol requires two daytime surveys and four nighttime surveys, conducted over a period of six weeks. To date, two daytime surveys and two of the nighttime surveys have been completed. What remains is the rest of the nighttime surveys that need to be separated by a period of 7 days. That process will be completed by the end of next week. So far, no red legged frogs have been observed during the surveys. The area is not contiguous to, nor part of, a larger area that has these species; it is a satellite area. Once the protocol surveys are completed, then the package is submitted to the USF&W. Once it is determined that no frogs are on the site, no further action will be required specific to the red legged frogs.

Mr. Eidemiller continued that the other item concerns an endangered plant. Typically in the process, first the California Native Plant Society's listing of rare, threatened and endangered plants is consulted to see if there are any listed that are also found on the site or in the

region. There are two species that are within 3/4 of a mile of the project site that are annuals, not perennials. It is rare for a plant to exist alone; they usually exist in a community of plants that are similar in the same kind of soil. This is a disturbed site; therefore, the plant community that exists normal to these two species is not there. It cannot be completely determined that these plants exist on the site until the flowering period, which is in the early spring. Within the next two weeks or so, it will be easy to determine if those species exist on the site.

Mr. Eidemiller continued to say that the last item raised was the issue of a wetland. There are many different protocols concerning the determination of wetlands. The federal government finally determined which protocol to use to define a wetland, which is the US Army Corps of Engineers. The letter from USF&W stated that they believed under the US Fish & Wildlife service protocol, the site is a wetland. There is a difference between the two. There are three things that are required to qualify as a wetland: a hydric soil (a soil underwater for a certain amount of time which causes an anaerobic reduction), hydric plants, and soil. Fourteen soils pits were dug on this site, and in all fourteen, no indicators of hydric soils were found. So the three items needed to qualify as a wetland were not found, according to the Corps of Engineers. In the old USF&W wetland delineation, it only required one, a lot more stringent than the US Army Corps of Engineers. The USF&W is not a regulatory program. The plan is to complete the red legged frog surveys and then submit to the City and the USF&W service; also for the plant surveys. So under the one protocol, there is a wetland; under the other protocol, there isn't.

Mr. Eidemiller proposed that the Commission approve the project subject to the completion of the surveys, and that all the agencies are satisfied with the findings. If anything is found, no construction shall occur until that issue is taken care of with the particular agency with the jurisdiction over either the wetland or the species.

In response to Commissioner Moats' question concerning recreating the wetlands, Mr. Eidemiller responded that it was possible for the retention basin to be moved.

Mr. Eidemiller clarified that his agency was hired by the City in order to put them in a more unbiased position.

Cletis England, of Santa Margarita, was present. He spoke concerning the locations that the frogs have been identified in. No frogs have been seen closer than half a mile to the site.

Commissioner Hunter commented that although she believed this is a good project, she believed the Commissions' hands are tied based on the advice of Wendy Stockton, and she wanted to abide by that counsel and not put the City in a position of risk.

Commissioner Brown asked if Gordon Gill had given the Commission an "out" so that the Commission could take action, but still protect the City should findings be made that ruled against this project.

Dennis Law, Andre Morris & Buttery, 1102 Laurel Lane, San Luis Obispo, attorney for the applicant, responded to Commissioner Brown's question by suggesting that the Commission approve the project subject to the condition that no construction shall commence until there is clearance from the two surveys that are underway for the red legged frog and the plants. That way, there would be no possibility of disruption to the habitats or significant environmental impacts that would trigger the requirement of an EIR. The City of Santa Maria is the lead agency on this project; the US Wildlife is the responsible agency, and those are different roles under CEQA as it pertains to the federal endangered species that are in play. He stated that he believed the City could safely impose a condition that no construction would begin until there is clearance. If species are found, then the appropriate permits would be obtained

from the responsible agencies that would set the conditions for the permit. That way, no new mitigation measures would be set. It is not uncommon to have deferral to the responsible agencies for evaluation of appropriate mitigations when the permit is obtained from them. From a legal perspective, the wetlands question is a non-issue.

Wendy Stockton agreed with Mr. Law's comments concerning the wetland issue. The wetland issue has been resolved, and the Commission has evidence to that fact. With regard to the proposal that the Commission could approve the project but place a condition for no construction, in an ordinary situation, that might be appropriate if environmental review could be concluded in advance. The problem here is that the evidence is lacking to conclude the environmental review, and that has to be done first. The CEQA guidelines state that a mandatory finding of significance must be made. If one of these surveys shows that certain facts are true, then an EIR must follow, with the power to disapprove the project. If the project has already been approved, then there would be no power to disapprove the project, and that is why the Commission would be in a legal bind if they did what Mr. Law recommends. If there was no endangered species, this would be easier; but the environmental review needs to be finished first.

Co-Chair Waterfield agreed with Commissioner Hunter that the Commissioner's hands are tied. She remarked that the Commission needs to look out for the good of the City of Santa Maria.

Commissioner Moats commented that this is a question of law, and there are two conflicting opinions being presented.

Mr. Law interjected that the applicant could indemnify the City in the event that there are any challenges to the City's actions, so through that sort of provision, the City could be protected, and the applicant is prepared to take the risk.

Commissioner Moats asked staff that if the Commission approved the project on the condition that the environmental impact didn't show frogs, and then frogs were found, who would be able to disapprove the project.

Wendy Stockton responded that the Commission cannot approve and disapprove a project at the same time. Fish & Game might have the ability to challenge a decision should some frogs be found. They could also bring a lawsuit against the City, which would mean the City would have to fight that, and the applicant would not be able to build their project.

Mr. Law clarified that the decision for the CEQA review is what is being sought at this meeting. The suggestion is to adopt a negative declaration. The approval of the negative declaration would contain a condition that the protocols required under the USF&W would be completed. If no species were found, then there'd be no issue. If any species were found, the condition would require the obtainment of permits from the responsible agencies. If the applicant couldn't satisfy that condition, then they wouldn't be able to build the project. He has seen this type of process done, with approval conditioned upon a permit being issued by the responsible agency. If there was a problem or a challenge, the applicant believes that this route is appropriate, and the applicant will defend his project and position and indemnify the City for the legal costs that they would incur.

Commissioner Brown asked Mr. Law if this project would still need to go to City Council after Planning Commission approval.

Mr. Law responded that it would only need to go to City Council if there was a challenge to the project.

Bill Shipsey clarified that the resolution being presented would authorize the filing of the mitigated negative declaration. City Council does not need to approve resolutions that the Planning Commission adopts.

Wendy Stockton stated that the Planning Commission has the authority to have final approval of planned development permits and subdivisions.

Commissioner Hunter commented that she didn't feel she was in a position to certify the mitigated negative declaration, and that her only option was to wait until the information is complete to make a decision upon. She stated that the role of the Planning Commission is to not put the City into the potential position of a lawsuit or litigation.

The Commissioners discussed procedures, whether or not the applicant could appeal a denial to City Council, or if the Planning Commission should continue the item as opposed to denying it.

Mr. Law spoke in behalf of the applicant, stating that they would prefer a continuance.

Richard Meyer, representing the developer, spoke. They believe the risk of going forward really isn't a risk at all, because they wouldn't put themselves into jeopardy by destroying anything endangered. However, if the project did receive approval, it would allow the applicant to put their plans into the building department to start review, which would save them a lot of time and money. The building department won't accept plans for review until the PD permit is approved. He presented two requests: if the Planning Commission decided to not approve the project, he requested that perhaps the building department could proceed with plan check; and the other request would be that if the project was to be continued, to move the hearing up to as soon as possible.

Wendy Stockton clarified that any date for the continuance would work, as long as the findings are complete.

Bill Shipsey commented that if the issue at hand was an agreement to continue the item subject to the City accepting the grading and building plans, then if the applicant indemnified the City for taking in the plancheck and going forward without a planned development permit, it could be treated as a plancheck service. However, if the Planning Commission later made any changes to the map or to the buildings, then the whole thing would need to be reviewed again.

Mr. Meyer asked if any discussion could be had concerning the project. The applicant did not know if the Planning Commission even liked the project.

Wendy Stockton clarified to co-Chair Waterfield that the environmental review would be the first thing to be acted upon by the Commission and then the Commission would act on the subdivision before a planned development permit, because there could be misconceptions about what was authorized.

Commissioner Hunter stated her discomfort over processing building plans before the planned development permit had been considered.

Mr. Meyer asked if any aspects of the project could be reviewed by the Commission.

Bill Shipsey responded that the project could be discussed since it is on the agenda; just no action could take place. The Commissioners could make comments on the project.

Mr. Meyer commented that they had their senior civil engineer and architect present to answer any questions that the Commissioners might have.

Co-Chair Waterfield asked the Commissioners if they wanted to discuss the project further.

Mr. Meyer responded that what the applicant would really appreciate would be some direction from the Commission as to what they liked or didn't like in the project. So far, they have not received any input from the Commissioners on the project.

Commissioner Brown asked why the plan had to come back before the Commission.

Mr. Meyer responded that it had to do with the lot sizes being less than the minimum requirement.

Commissioner Hunter recalled seeing the project at the subdivision committee meeting when it was noticed that there was a glitch with the lot sizes. She asked staff if a precedent was going to be set by the Commission reviewing this project in plancheck at this time.

Bill Shipsey responded that a similar procedure was done for Galaxy Theater, and that had a pre-plan check review, which probably saved the applicant much money in design work.

Peggy Woods commented that she had reviewed plans in plancheck before Planning Commission review and approval several times. The plan correction sheet in those cases would just have a preface stating that this plan had not been reviewed and approved by the Planning Commission, and if there were any changes, they must be reflected in the plans, and there could be further corrections.

Bill Shipsey added that plan checks would be concentrating on building codes, not colors and aesthetics.

Co-Chair Waterfield stated that in that case, the Commissioners could proceed with review of the plans in a relaxed study session way.

Commissioner Brown asked staff if they could be directed by the Commission to proceed with the plan check and then review the specifics of the project when it comes before the Commission later.

Richard Meyer commented that it would be satisfactory, if the Commissioners went along with what staff recommended, and he believed that what staff was recommending was that the project be approved as presented in respect to design.

Bill Shipsey clarified that staff was not recommending anything in terms of the project design or subdivision because there was no environmental document. Staff stated that they would accept plans at the building division counter but not approve anything until after all the reports were in.

Richard Meyer stated that they believed they had incorporated staff's comments into their design. He stated that they had complied with building codes, and if the biological issue had not come up, then staff would have been recommending approval to the Commission. He stated that the Commission should go along with staff and they wouldn't have any problems.

Commissioner Hunter stated her discomfort at what she perceived as a disconnect. She recommended that the project revert back to the normal processing and review. She said that the purpose of the Planning Commission was not to *carte blanche* stamp what the staff recommended. Perhaps the Planning Commission needed to take a step back. She stated that she didn't want to convey the message that the Planning Commission had approved project because they had said it could go to plan check. In her mind, the Planning Commission had done no such thing.

Co-Chair Waterfield stated that the item should be continued, and turned into the City without the Planning Commission being involved.

Gordon Gill addressed the Commissioners. He refreshed their memory that they have had two presentations of this project regarding the traffic circulation and architectural renderings, and the color boards. He recalled compliments regarding the design of the project. He also stated that the only issue they're really facing are two more surveys that needed to be done to meet the protocol of Fish & Game, which are scheduled to be done prior to the next Planning Commission meeting. Assuming no frogs or endangered plant species are found, he asked if the applicant would be in a position for the Planning Commission to act on an environmental application.

Wendy Stockton stated that she would need to see what the biological study said before she could make a recommendation. She suggested a short continuance on the item.

Co-Chair Waterfield asked staff what the next available meeting date would be, and Bill Shipsey replied it would be April 19th.

Commissioner Hunter stated for the record a correction to what Gordon Gill said, which was an implication that the Commissioners had approved the architectural and site plan and map for this site. That had, in fact, not happened. It was heard at a study session and the tentative map was discussed at the subdivision meeting. She had questions on the project, and did not want anyone to think that this was an approved project.

Commissioner Hunter made the motion to continue this item to the April 19, 2006 public hearing. Commissioner Moats seconded and it was carried. Vote: 4-0 with Commissioner Everett absent.

ADJOURNMENT: The meeting was adjourned at 10:00 p.m. to a Study Session on April 6, 2006, at 10:00 a.m. in the Community Development Department Conference Room, 110 S. Pine Street, Santa Maria.

Respectfully submitted,

PEGGY WOODS, ASST. SECRETARY
CITY PLANNING COMMISSION