

SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors
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Santa Barbara, CA 93101
(805) 568-2240

Agenda Number:

Prepared on: May 4, 1999
Department: Planning & Development
Budget Unit: 053
Agenda Date: May 18, 1999
Placement: Departmental
Estimate Time: 3 Hours
Continued Item: NO
If Yes, date from:
Document FileName: G:\Group\dev_rev\wp\cp\94cases\
4cp010\BSappeal.doc_

TO: Board of Supervisors

FROM: Albert J. McCurdy
Secretary to the Planning Commission

STAFF CONTACT: Caroline Kuizenga, Planner
Development Review, 568-2057

SUBJECT: **Appeal of Austin Val Verde Foundation Conditional Use Permit
94-CP-010 AP01**

Hearing to consider the appeal of Donald G. Iselin for the Committee in Opposition to Val Verde Museum of the Planning Commission's December 16, 1998 decision to approve, with conditions, the request of Laura Bridley, agent for the applicant, for a Conditional Use Permit, 94-CP-010, allowing the existing Val Verde Estates to be used as a museum, preserving it as a public resource for limited research, tours and special events under provisions of Article IV zoned Residential 5-E-1, and to certify the Environmental Impact Report, 98-EIR-2; **AP Nos. 011-120-003 and -039**, located at 2549 Sycamore Canyon Road, Montecito area, First District. (ESTIMATED TIME: 3 HRS).

Recommendations: That the Board of Supervisors:

1. Adopt the required findings for the project specified in Attachment A of the Planning Commission action letter dated January 6, 1999, including CEQA findings, as augmented by Finding 1.7 included as Attachment B of this report;
2. Certify the Environmental Impact Report 98-EIR-2 as revised by Attachment C of this report and adopt the mitigation monitoring program contained in the conditions of approval;
3. Affirm the Planning Commission's decision to conditionally approve 90-CP-010; and
4. Approve 90-CP-010 subject to the conditions of approval included in the Planning Commission action letter for the hearing of December 16, 1998, dated January 6, 1999.

Alignment with Board Strategic Plan:

The above recommendations are primarily aligned with Goal 7, relating to actions required by law or by routine business necessity.

Executive Summary and Discussion:

On December 16, 1998, the Planning Commission approved a Conditional Use Permit for the Val Verde estate, allowing limited use of the grounds for research, tours, and special events. Monthly maxima in each of the use categories would be limited, with a total annual usage from all conditionally-permitted uses not to exceed 3,340 visitors.

An appeal of this action was filed with the Clerk of the Board of Supervisors on December 23, 1998 by Rear Admiral (Ret.) Donald Iselin on behalf of a group of citizens opposed to the project. A facilitation meeting was held February 17, 1999, attended by citizen appellants, representatives of the applicant, and County staff. A summary of the meeting has been provided by County Counsel as Attachment D of this report.

Responses to each of the thirteen appeal issues appear below in italics in the order stated on the appeal form, which was Attachment A of the information provided to your Board in the Agenda Letter of April 27, 1999. Staff responses to each issue area follow the individual appeal statements.

1. The project description (Condition 1) has inconsistencies and ambiguities relating to the name of the Foundation, when residential use of the main house must cease, and the requirement that residential use of the main house must cease prior to issuance of land use clearance.

During the facilitation meeting the applicant clarified that the Austin Val Verde Foundation would be the official name of the organization. Condition 1 states that the conditionally-permitted use would not commence until title to the property had been transferred to the Val Verde Foundation and the primary residential use had ceased. As is standard County practice, no specific time is set for this transfer, other than Condition 26 which states that within five years of granting the CUP the use must commence. Since the conditions of approval use the terms "Val Verde Foundation" and "Austin Val Verde Foundation" interchangeably, this could be clarified by a statement to that effect, or all references to the Foundation could be changed to the Austin Val Verde Foundation, if the appeal is denied and the project is approved by the Board of Supervisors.

2. Failure to include a Condition requiring that 4-5 million dollars be donated to the Foundation for maintenance and operation prior to land use clearance.

The County does not require proof of an endowment or financial solvency prior to approving a Conditional Use Permit or any other type of land use permit. Pursuant to §35-483.9.2 of the Montecito Zoning Ordinance (Article IV), a Conditional Use Permit shall become null and void and automatically revoked if the use permitted is discontinued for more than one year.

3. The environmental impact report (98-EIR-2) is inadequate under CEQA's substantive standards.

Section 15151 of the California Environmental Quality Act states that an EIR must be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. The document must contain facts and analysis, but need not be exhaustive, and the lead agency may choose among differing expert opinions when those arguments are identified in a responsive manner. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. A good faith effort at full disclosure, rather than perfection, is required.

The Planning Commission found that the environmental impact report (98-EIR-2) prepared for the Austin Val Verde project constituted an accurate, adequate, and good faith effort at full disclosure under CEQA. All required sections are present, significance of impact is ranked and substantiated, differences among experts are presented, and conclusions are substantiated. The Planning Commission found that through feasible conditions placed upon the project, all potentially significant adverse environmental impacts could be eliminated or mitigated to a level of insignificance. The specific findings made by the Planning Commission are included in the action letter dated January 6, 1999 (Attachment A). These findings are augmented by the addition of CEQA Finding 1.7 (Attachment B) which was inadvertently omitted from the Planning Commission staff report.

4. Planning Commission findings of support for the Conditional Use Permit (CUP) are not supported in the administrative record; rather, the record supports findings for denial of the CUP.

The administrative record includes seven staff reports, a negative declaration, an environmental impact report, action letters from multiple hearings, technical analyses, and numerous public comment letters. While the public comment responses range from support to rejection, the staff reports recommending approval and the Planning Commission's approval could only be completed by making good faith findings of consistency with the Montecito Zoning Ordinance, the Montecito Community Plan, the Santa Barbara County Comprehensive Plan, and fact-based environmental analysis recommending realistic, feasible mitigations to reduce potentially significant environmental impacts to less than significance. These findings of consistency are found in their more complete form in Section 6 of the staff reports for the Planning Commission hearings of January 22, 1997, and October 28, 1998 (actually heard on November 4, 1998).

5. The project will result in significant, adverse, unavoidable and unmitigated traffic impacts.

Numerous traffic analyses have been prepared for the project, and Caltrans, County Public Works, the applicant's traffic engineer, and the traffic engineer hired to analyze traffic impacts for the environmental impact report all concluded that the project resulted in no significant traffic impacts that could not be feasibly be mitigated by conditions as approved by the Planning Commission.

Initial traffic studies were completed by the applicant in 1994 and 1995, with a cumulative analysis provided in 1996, and an addendum addressing projected trip generation from docents and special event support staff completed in 1997. The project was circulated to Caltrans from project inception (1994) for their review and input. The Negative Declaration prepared for this project was largely based upon a decision made by Caltrans in a letter dated February 10, 1995 that stated the sight distance requirements of the State Department of Transportation had been met based on a sight distance study performed by Penfield & Smith. Santa Barbara County Public Works Department of Transportation Division staff also concurred with the findings of the traffic study, and concluded that it was consistent with the Montecito Community Plan Circulation Element policies (Memorandum dated May 8, 1995).

In response to public challenge during the environmental review process, Caltrans in 1996 requested that a field review of sight distance be required prior to project approval; however, the analysis was completed by Penfield & Smith under the review of County Public Works staff in December 1996. County engineers approved Penfield and Smith methodology and results, and Caltrans once again confirmed that site distance issues had been addressed satisfactorily (Caltrans letter of January 13, 1997). Caltrans' remaining concern that large, slow-moving buses could pose a potential traffic hazard at the estate entrance was resolved with the requirement that no vehicles associated with the conditionally-permitted uses could exceed an overall length of 30 feet. Caltrans accepted Penfield & Smith exhibits which demonstrated that vehicles 30' or shorter could enter or exit the estate driveway without the turning maneuver encroaching into the opposing traffic lane.

Challenges to traffic conclusions were received from the Korve traffic engineering firm (retained by the appellants) dated February 19, 1997 and July 23, 1997, relative to sight distance requirements, accident data, and four traffic scenarios at the estate entrance. Caltrans critiqued the February report, refuted Korve conclusions, and reaffirmed their previous position. Additionally, the applicants retained Associated Transportation Engineers for an independent peer review of the site access, accident analyses, and peak event access. This study re-affirmed the abilities of smaller vehicles to safely enter and exit the site and that accident occurrence within 500 feet of the estate driveway was lower than the road's average (2.14 accidents/million vehicle miles versus 2.5 accidents per mvm for the section of Sycamore Canyon Road between Mountain Drive and Sheffield Drive). In addition, Caltrans performed their own spot speed zone survey in the project vicinity to determine critical speeds. This survey concluded that the minimum stopping site distance required by Caltrans was available to the east and west of the estate entrance.

Based upon the substantial analysis given to traffic issues and the evidence in the record, the Planning Commission concluded that all traffic impacts had been mitigated to the maximum extent feasible, thereby reducing the impacts to a less than significant level.

6. Available stopping sight distances at the Val Verde location are insufficient and do not satisfy Caltrans design criteria. Adopted traffic conditions and mitigations are not solidly based, and in some instances are infeasible and create new dangers.

7. The Planning Commission excused the failed stopping sight distances on speculative and other unacceptable rationales.

In addition to the traffic reports and analyses discussed immediately above, the traffic engineering firm of Linscott, Law, & Greenspan, retained to specifically address traffic related issues in the 1998 EIR, performed an independent sight distance analysis. The same firm (Wiltec) was retained to perform this technical task as had been used by Korve Engineering and the appellants in their survey. The speed surveys were conducted at the points east and west of the estate driveway entrance where a driver on Sycamore Canyon Road (also known as State Route 192) would begin braking if a vehicle at the Val Verde driveway entered the roadway. Caltrans Highway Design Manual standards were used to determine if adequate sight distance were available based upon the critical speeds derived from this updated study. Adopted traffic conditions and mitigations were adopted in direct response to the technical analyses provided by experts in the traffic engineering field. These include limits on visitors, prohibition of left turns by visitors when entering the estate, advance reservation with signage and explanatory materials as to how to enter the estate, acceleration and deceleration areas flanking the driveway, markers to direct traffic flow at the driveway entrance, a Construction Transportation Management Plan, and a limit to no more

than thirty feet in length for vehicles providing service to any conditionally-permitted use on the site. The applicant additionally proposed, and the Planning Commission adopted, a traffic management condition which will require the hiring of off-duty California Highway Patrol staff to direct traffic during special events. Further conditions affecting circulation associated with the conditionally-permitted uses require a coordination with schools and institutions in the area to avoid overlap, a compliance hearing after one year of operation, two rather than four special events during the first year of operation, a requirement that during this time if an evening special event is held, a shuttle service shall transport visitors to and from the event. All traffic-related conditions reflect a reliance on technical expertise, Planning Commission directives, and additional safeguards offered by the applicant to address traffic-related concerns. The Planning Commission relied on the technical data to conclude that the traffic conditions and mitigation measures were adequate, and that all traffic safety issues (e.g. sight distance, stopping distance) had been resolved.

8. Some of the traffic conditions and mitigations are inconsistent with the conclusions applied in the approval of Lotusland.

Consistency in County recommendations is a vital and important goal; however, analysis of the potential impacts of a project must, of necessity, be based upon a site-specific analysis. It could be unprofessional and inaccurate to apply standards from one project to that of another site with differing aspect, location, topography, and access. More specifically, Lotusland fronts two roads, has more than one point of access, occupies a different topographic setting, and currently serves a visiting population three times that of the proposed Val Verde maximum visitation of 3,340 persons per year. Val Verde is limited to Sycamore Canyon Road as the only feasible point of access, occupies a different topography and setting, has stringent vehicle size limits and frequency, and will employ traffic mitigation techniques applicable to the specifics of its site.

9. The approval of the project is inconsistent with the County's traffic analysis and actions regarding other proposed projects on Sycamore Canyon Road.

Sycamore Canyon Road is State Highway 192 and as such is under the jurisdiction of the California Department of Transportation (Caltrans). Since project inception, Caltrans has stated that adequate sight distance is available at the driveway to enter and exit the property; has independently completed a spot Speed Zone Survey at the project entrance; has refuted and critiqued traffic reports submitted by the appellants; has confirmed that no accidents have been recorded at the property entrance; has approved the turning abilities of the small buses that might be used for some tours to safely negotiate estate ingress and egress without impinging on opposing traffic lanes; and has issued an Encroachment Permit to the applicant to perform periodic vegetation maintenance in the Caltrans right-of-way to ensure adequate sight distance to the east and west of the estate driveway. The County monitored a sight distance survey performed by Penfield and Smith in the spring of 1997, and approved the test methodology and results which demonstrate that adequate sight distance was available from the project driveway.

As stated above, the Planning Commission considered all aspects of the traffic analyses in reaching their conclusion to adopt findings in support of the project.

10. The Planning Commission failed to impose the EIR-identified environmentally superior traffic alternative as conditions of project approval.

CEQA does not require that the environmentally superior alternative be chosen, especially if it can be demonstrated that the potential impacts of the project, as proposed, can be feasibly mitigated. With the inclusion of the traffic mitigation measures identified in the EIR and the additional traffic-related conditions proposed by the applicant and imposed by the Planning Commission, traffic impacts were found to be mitigated to less than significant levels.

The range of alternatives identified in the EIR for Val Verde included relocating the entrance road further east, rebuilding and widening the existing driveway, and daytime only special events. Each of these options was discussed in Section 6 of the EIR, and each would cause varying degrees of other impacts warranting further investigation for significance. Alternative 6.1, relocating the entrance road further to the east, would afford 100 feet more sight distance from the west; however, the option could cause additional impacts and possible confusion by the visiting public as to which driveway to use. (See Attachment C for two errata sheets to replace pages 1-5 and 6-1 of the EIR relative to this proposal). Alternative 6.2, rebuilding the entrance to the existing driveway would widen the driveway throat; however, it would result in potentially significant impacts to the historic wingwalls at the estate entrance. The Montecito Fire Protection District has approved the current driveway and entrance configuration with the incorporation of specific internal signage to accommodate safe transit flow within the estate. Alternative 6.3, daytime-only special events, was suggested to reduce noise and possible headlight glare to one adjacent property to the southeast. Noise-generating activities are already tightly controlled under the restrictions of the proposed conditional use permit, with events located at the center of an estate in excess of 17, heavily-wooded acres which would dampen and disperse the low noise levels. Headlight glare would only potentially affect an accessory building (not the main residence) on an adjacent property to the southeast of the estate. Feasible conditions of barrier fencing and enhanced landscaping adjacent to the valet parking area would mitigate this possible impact.

Given the above facts, the Planning Commission found that the project as proposed could feasibly mitigate potential impacts to less than significance.

11. *The project is detrimental to the health, safety, comfort, convenience and general welfare of the neighborhood and is inconsistent with the surrounding area.*
12. *The project will introduce a visitor-serving educational use into a predominately semi-rural residential setting and is incompatible with the character of the community.*

The Val Verde estate has existed since 1916-18, with a history of residents, public access, parties, visitors, benefits, and tour groups spanning its 80-year history. Records of uses other than residential exist in articles, news clippings, books, paintings, and the personal calendar of the current resident, Dr. Warren Austin. The conditional use permit seeks to legitimize these historic uses in a limited and controlled manner, as well as making the estate and its grounds open and accessible to the interested public. The uses are not new to the neighborhood, and since primary residential use of the main house must cease before the conditional use permit becomes effective, the impact to the neighborhood will likely be much less intrusive than many residential uses in Montecito. The Planning Commission found that restrictions on noise, traffic, size of vehicles, lighting, number and timing of events; coordination with other institutions; notification of neighbors; phasing; and a compliance review will all hold the operation of the Austin Val Verde Foundation to a higher standard than the adjoining residences, and will help to assure that it remains integrated into the functioning of the residential neighborhood in a positive manner.

13. The project is inconsistent with and violates numerous goals, policies, and actions of the Montecito Community Plan.

As discussed most comprehensively in Section 6.2 of the staff reports of January 22, 1997, and October 28, 1998, the project was found consistent with all relevant policies of the Montecito Community Plan and the Santa Barbara County Comprehensive Plan. The project is notably consistent with the Montecito Plan's Historic Sites Policy #1 which reads:

“All available measures, including purchase, tax relief, purchase of development rights, etc., shall be explored to avoid development on significant historic, prehistoric, archaeological, and other classes of cultural sites.”

The Val Verde estate is a designated County Landmark, and is on the State and National Register of Historic Places. Approval of the Conditional Use Permit helps protect the integrity of the estate and its grounds for future visitors, students, and researchers. Given this information, the Planning Commission found the project to be consistent with all applicable goals, policies and actions of the Montecito Community Plan as reflected in the adopted findings included in the action letter dated January 6, 1999.

Additional Discussion and Errata Pages:

In addition to the issues of the appeal discussed above, this staff report incorporates two corrections to the public record for this project. They include corrections to page 1-5 and page 6-1 of the EIR (Attachment C), and the inclusion of one additional finding which was inadvertently omitted from the staff reports to the Planning Commission (Attachment B) after the EIR was prepared. Should the Board of Supervisors deny the appeal and approve the project, these corrections should be referenced in the decision and findings.

Mandates and Service Levels:

Pursuant to Government Code Sections 65355 and 65090, a notice shall be published in at least one newspaper of general circulation.

Pursuant to Government Code Section 65091, mailed notice required to property owners within 300 feet of the project including the real property owners, project applicant and local agencies expected to provide essential services, shall be done at least 10 days prior to the hearing.

Fiscal and Facilities Impacts:

Pursuant to Board of Supervisors Resolution No. 96-323, a non-applicant appeal fee of \$435 was paid. Additional costs of processing the appeal are not recovered and result in a net cost to the Department.

Special Instructions:

Clerk of the Board shall complete noticing for the project in the Santa Barbara News-Press and shall complete the mailed notice for the project.

Clerk of the Board shall forward a copy of the Minute Order to Planning and Development, attention: Deanna Cox.

Planning and Development will prepare all final action letters and notify all interested parties of the Board of Supervisors final action.

Concurrence: County Counsel

Attachments:

- A. Action Letter Dated January 6, 1999
- B. CEQA Finding 1-7
- C. Errata pages 1-5 and 6-1 of the Environmental Impact Report, 98-EIR-2
- D. County Counsel Facilitation Report

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