

ADDENDUM

INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

for the

CLASP SUBAREA 3 (NIVEN PROPERTY)

PRELIMINARY DEVELOPMENT PLAN

September 2007

Background. A full Environmental Impact Report (EIR) was completed for the Central Larkspur Specific Plan (CLASP) in 2004 and certified in 2006 at the same time as adoption of the CLASP. The project site is located within the CLASP area and is known as Subarea 3.

Following certification of the CLASP EIR, the applicants submitted an initial Preliminary Development Plan application for Subarea 3. During review of this initial application, it was determined that further environmental analysis was required due to proposed tree removals. The Initial Study discussed only those issues related to the specific project plans that were not adequately addressed in the certified CLASP EIR. Although the CLASP clearly states which trees or groves of trees are to be preserved, the EIR assumed that no heritage trees would be removed. Thus, an Initial Study was prepared specific to the project application that analyzed the tree removals. A Mitigated Negative Declaration was recommended for approval.

The Mitigated Negative Declaration was approved and recommended for adoption by the Planning Commission on June 10, 2008 and approved by the City Council on July 9, 2008. A Mitigated Negative Declaration means all potential adverse environmental impacts, which could be caused by the project, can be brought to a less than significant level with the implementation of mitigation measures.

State Law. Pursuant to State CEQA Guidelines Section 151164, Addendum to an EIR or Negative Declaration, an addendum to a previously adopted negative declaration may be prepared if:

- (1) only minor technical changes or additions are necessary, and
- (2) it is determined that:
 - (a) there have been no substantial changes proposed to the project which would require major revisions of the negative declaration due to new significant environmental effects or a substantial increase in the severity of previously identified significant effects,
 - (b) there have been no substantial changes with respect to the circumstances under which the project is undertaken which would require revisions to the negative declaration,
 - (c) there is no new information of substantial importance which shows that the project would have significant environmental effects either not discussed or that would be substantially more severe than discussed; and
 - (d) mitigation measures or alternatives previously found not to be feasible would in fact be feasible or the measures or alternatives are considerably different than those analyzed in the adopted negative declaration.

An addendum need not be circulated for public review but can be included in or attached to the adopted negative declaration. The decision making body shall consider the addendum with the final EIR or adopted negative declaration prior to making a decision on the project.

ADDENDUM

Explanation for Addendum. Subsection e) of Section IV, Biological Resources, of the project Initial Study/Mitigated Negative Declaration (pages 19 –24), discusses potential conflicts with the City's Heritage Tree Ordinance, Larkspur Municipal Code (LMC) Chapter 12.16. The discussion refers to Initial Study Table 2, which identifies the total number of heritage trees identified on the site, those to be removed, and the overall conditions of the trees to be removed. It also refers to Initial Study Figure 5, which shows the trees to be removed. Five mitigation measures are identified and were included as conditions of approval of the Preliminary Development Plan for the Rose Garden Project. The discussion below is in regards to an incorrect tree identification in Mitigation Measure Biology 2 (c), the addition of five trees (including one heritage tree) in an updated tree survey for the project site, and changes in the tree removal plan to save ten non-heritage trees, including one Coast Live oak, and remove five liquidamber trees. This discussion also includes an update to Mitigation Measure 2 (e) and the request to remove a tree within the proposed location of a multi-use path.

- (1) Mitigation Measure Biology 2(c) states, "One heritage Valley oak at the south end of the site may be able to be preserved by careful site planning and construction techniques (Tree No. 17267) on Lot No. 25. The applicant shall either revise the house footprint on Lot 25 or shall obtain an arborist's approval of the 'protection zone' around this tree prior to approval of the Precise Development Plan." The City's consultant for the Initial Study/Mitigated Negative Declaration prepared the analysis based on a tree inventory report, prepared by LandWatch, Inc. dated revised June 7, 2007. The LandWatch report correctly identified the tree as a 20" diameter bay in good condition. However, Tree No. 17267 was incorrectly identified in Mitigation Measure Biology –2c as a heritage Valley oak. It is unclear how the mistake was made in the report. The closest oaks include an Oregon White oak, Tree No. 17278, which is listed as in fair condition, but is located on the side of a filled mound and has a severe lean. It is not a good candidate for preservation. (Note: The original LandWatch report indicated this Oregon White oak for removal and an updated survey, based on the land surveyor's information, incorrectly indicates it would be relocated.) Another oak, an 8" in diameter Coast Live oak, Tree No. 17257, is approximately 80' away from the bay. With the updated tree survey, the Coast Live oak is to be preserved.

Walter Fujii, arborist with Landwatch, states in his February 5, 2009 letter (See Tab 15) that bays are known hosts of Sudden Oak Death (SOD) and highly discourages the preservation of the tree. The City's arborist, Robert Morey of Marin Tree Service, agrees that bays can be hosts of SOD but the disease is not carried airborne from the bays and would only impact an oak if it were in close vicinity to the bay. In this case, the only oak in the vicinity that is to be preserved is at least 80' away from the bay (Tree No. 17257). Mr. Morey also noted, during a site visit on May 22, that the bay is in good condition and should be preserved.

In a June 2, 2009 letter, based on the site visit, Mr. Fujii provided a proposal for preserving the bay tree, which includes revising the site plan on Lot 29 (previously Lot 25 in the Preliminary Development Plan) by flipping the house plan on the site so that the home's interior courtyard surrounds the tree. Also, because the lot would be filled with approximately 5' of soil, the proposal includes constructing a five-foot retaining wall at a five-foot radius from the face of the trunk and removing the lower branches of the tree to avoid canopy conflict with the roof of the home. Mr. Fujii does

ADDENDUM

not recommend preserving the tree because California bay trees are not a species that tolerates fill soil. He also states that, if the tree survives and grows vigorously within the confines of the tree well and patio, its roots could impact the surrounding hardscape surface. After reviewing the proposal, Mr. Morey concurred with Mr. Fujii's findings. The City's engineering consultants have also raised concerns about the construction of the retaining wall over the roots of the tree, the potential for ponding within the well, and the need for protection around the well to prevent anyone from falling in to it.

It is noted that Mitigation Measure Biology 2 (c) states that the tree "may be able to be preserved," implying that the tree might not be able to be saved. Therefore, given the incorrect tree identification and that the bay tree would probably not survive, the Planning Commission may determine that the Mitigation Measure should be deleted and removal of the bay tree should be mitigated consistent with Mitigation Measure 2(a) at a replacement ratio of 2:1, which is consistent with the City's standard mitigation measure for removal of a 20" diameter heritage tree.

Given the incorrect tree identification in Mitigation Measure Biology 2(c), the proposed deletion of the mitigation measure constitutes a necessary technical change that does not involve substantial changes to the proposed project. It also does not result in any new significant environmental effects not identified in the Initial Study/Mitigated Negative Declaration or cause a significant increase in the severity of any identified impacts.

- (2) In August of 2008, in compliance with Preliminary Development Plan Condition of Approval D.1, Willis Land Surveying verified the locations of the trees plotted for the February 2007 existing conditions map.

(a) During the survey, five additional trees (Tree Nos 1 –5), including one heritage size (Tree No. 2), were identified that had not been tagged during the original survey. Of these additional trees, four are to be removed (Tree Nos. 1 – 4) including the one heritage tree, which is a 20" in diameter Bailey acacia tree in very poor condition. The trees to be removed include one plum in poor condition, and two Bailey acacias (including the heritage tree) and one apricot in very poor condition. One liquidamber (Tree No. 5) in fair condition will be preserved. (Refer Tab 15, of the Precise Development Plan binder, for the updated report from LandWatch; the June 2007 LandWatch report can be found under Tab 7 in the Preliminary Development Plan Binder).

As the heritage Bailey acacia to be removed is a pyrophytic species in very poor condition, its removal, therefore, does not involve substantial changes to the proposed project. Further, consistent with Mitigation Measure Biology - 2(a) and Mitigation Measure C.8 of the Preliminary Development Plan, its removal would require a replacement tree ratio of 2:1. The removal of the Bailey acacia does not result in any new significant environmental effects not identified in the Initial Study/Mitigated Negative Declaration or cause a significant increase in the severity of any identified impacts.

(b) The updated survey also identified changes in the tree removal plan to save ten non-heritage trees (one Coast Live oak, two Blackwood acacias, six Bailey acacias, and one liquidamber) located along the Larkspur Creek bank and remove five non-

ADDENDUM

heritage liquidamber trees located within the proposed multi-use path along Doherty Drive.

- (3) Mitigation Measure Biology-2(e) states, "The final bicycle/pedestrian path design shall protect trees as much as possible. If any additional heritage trees must be removed for this path, the applicant shall replace each tree at the identified replacement ratio. The path design shall be submitted for approval prior to approval of the Precise Development Plan." The project includes a 12' wide multi-use path that is to connect, just south of the Warming Hut, to the existing multi-use path located within the former railroad right-of-way.

As currently proposed, the path would be located between two heritage trees, a 50" diameter Black walnut (#17023) and a 19" diameter Valley oak (Tree No. 17021). The Black walnut is a mature tree in poor condition. The north edge of the path, as shown on the plans, would be two feet from the face of the trunk. The Black walnut is intolerant of soil disturbances and fill soil. The south edge of the path would be two feet from the Valley oak, a species that is also intolerant of fill soil. In a February 5, 2009 letter, Mr. Fujii, from LandWatch, recommends that the Black walnut be removed and that the path be shifted to be no closer than 8' from the face of the Valley oak and no closer than 11' from the face of trunk 17025, a Coast redwood located on the northern property line. He also recommends: (1) a tree protection plan, (2) that work within the tree protection zone be done by hand or hand held equipment, and (3) a retaining wall be installed on both sides of the path to prevent fill soil from entering the tree protection zones. The recommendations from the February 5, 2009 LandWatch letter should be included as conditions of approval for the Precise Development Plan.

As Mitigation Measure Biology – 2(e) provides for the possibility that additional heritage trees may need to be removed for multi-use paths, this information only updates the Initial Study/Mitigated Negative Declaration and does not involve substantial changes to the proposed project. Also, consistent with Mitigation Measure Biology - 2(a) and Mitigation Measure C.8 of the Preliminary Development Plan, removal of the 50" Black walnut would require a replacement tree ratio of 4:1. Therefore, removal of the Black walnut does not result in any new significant environmental effects not identified in the Initial Study/Mitigated Negative Declaration or cause an increase in the severity of any identified impacts.

Summary. As the tree was correctly identified in the original survey as a bay and incorrectly identified in the Initial Study/Mitigated Negative Declaration as an oak, it is recommended that the Planning Commission and City Council find the correction to the IS/MND to be minor. Further, the tree would be replaced at a ratio of 2:1; it has a 20" diameter. The same ratio would be applied to the 20" diameter Bailey acacia that was added to the inventory and is to be removed. The Bailey acacia is in very poor condition and the species is considered to be pyrophytic. The Black walnut to be removed is a mature tree in poor condition and potential removal of heritage trees was anticipated in the planning of the multi-use path. At 50" in diameter, the Black walnut would require a replacement ratio of 4:1. The additional five trees to be removed are non-heritage and are balanced with the preservation of ten other non-heritage trees including a Coast Live oak.

ADDENDUM

Landwatch's recommended tree protection measures should be included as conditions of project approval as would be standard for any required tree protection.

Findings. Prior to taking action on the merits of the project application, the City Council must consider the adoption of the Mitigated Negative Declaration and this Addendum. The Council must determine that:

- (1) the changes and additions are necessary minor technical changes, and
- (2) that there have been no substantial changes in the project or new information that:
 - a. Require major revisions to the Mitigated Negative Declaration,
 - b. Change the circumstances under which the project is to be undertaken requiring revisions to the Mitigated Negative Declaration,
 - c. Is of substantial importance with regards to any significant environmental effects discussed in the Mitigated Negative Declaration,
 - d. Substantially increase the severity of impacts identified in the Mitigated Negative Declaration, or
 - e. That change any mitigation measures or alternatives previously found not be feasible.