



COUNTY OF PLACER
Community Development/ Resource Agency

Michael J. Johnson, AICP
Agency Director

PLANNING

MEMORANDUM

TO: Honorable Board of Supervisors

FROM: Paul Thompson
Deputy Planning Director

DATE: February 9, 2010

SUBJECT: THIRD-PARTY APPEAL – PLANNING COMMISSION APPROVAL OF A MINOR USE PERMIT, MINOR BOUNDARY LINE ADJUSTMENT AND ADOPTION OF A REVISED MITIGATED NEGATIVE DECLARATION FOR THE ST. JOSEPH MARELLO CHURCH (PMPAT20080493)

ACTION REQUESTED

The Board is being asked to consider a third-party appeal from Gary and Evelyn Gaugler and Barry and Diane Haxton of the approval by the Planning Commission of the St. Joseph Marello Church project. It is staff's recommendation that the Board uphold the decision of the Planning Commission and deny the appeal.

BACKGROUND

The Planning Commission approved a Minor Use Permit, Minor Boundary Line Adjustment and adopted a Revised Mitigated Negative Declaration for the St. Joseph Marello Church project at its November 12, 2009 meeting. The church is intended to serve the immediate community of Granite Bay and would be developed in two phases. Phase I would include a 14,350 square foot, one-story, multi-purpose building with approximately 240 parking stalls provided onsite. A stormwater retention/detention facility will be constructed with Phase I and may be later used as playfields. Phase II would include a 25,000 square foot, one-story, church building (900 seats and administrative offices) with an additional 172 parking stalls for a total of 412. A 1,950 square foot addition to the multi-purpose building may also be built for a total of 16,300 square feet. With this addition, at full build-out the buildings would total approximately 41,300 square feet.

PLANNING COMMISSION ACTION

The proposed St. Joseph Marello Church project that is the subject of this appeal was considered by the Planning Commission at its November 12, 2009 meeting. At the hearing, one of the appellants, Dr. Gary Gaugler, raised questions about the revised Mitigated Negative Declaration and the project's consistency with the Granite Bay Community Plan. Additional testimony in opposition to the Church project was presented by one other person. After receiving public testimony, the Planning Commission unanimously voted to approve the project (4-0, with Commissioners Richard Johnson, Harry Crabb, and Mickey Gray absent), with modifications to Condition 2 (recreational fields may be utilized for church and community functions, for organized sports and events), Condition 3 (light standards changed from 14 to 18 feet in height), and Condition 42 (on-site tree replacement was added to tree mitigation).

LETTER OF APPEAL

On November 20, 2009, an appeal was filed by Gary and Evelyn Gaugler and Barry and Diane Haxton asserting that the project's environmental document violated the California Environmental Quality Act (CEQA), that the project was not consistent with goals and policies of the Granite Bay Community Plan in regards to site, scale, and protection of rural environment, that some of the Conditions of Approval are vague and/or inadequate, that there was no evidence of alternate wetlands mitigation methods, and that the formatting of the CEQA document and the Placer County Zoning Ordinance was confusing (Attachment A - Appeal Letter).

RESPONSE TO APPEAL LETTER

To ensure that each assertion set forth in the appeal letter is responded to, staff has prepared a specific response for each issue raised in the appeal letter.

Appellant asserts that the project has no index or cross-correlation of the conditions of Placer County Code 17.58.140(A) and (B) in the Mitigated Negative Declaration or the Revised Minor Use Permit (MUP) (Nov. 5, 2009). Consequently, there is no obvious or direct method of evaluating the negative conditions to the related mitigating issues.

The Planning Commission adopted a Revised Mitigated Negative Declaration and all mitigation measures are included in the approved conditions with references to the sections of the mitigated negative declaration. Section 15.58.140.A of the Placer County Zoning Ordinance provides findings that are required when the Planning Commission approves a Minor Use Permit. Section 15.58.140.B provides the objectives, consistent with state law, which must be met when the Planning Commission adopts conditions of approval for a project. The Planning Commission's approval of the Minor Use Permit and Minor Boundary Line Adjustment for the St. Joseph Marelo Church project included the required findings and conditions of approval consistent with these Zoning Code sections.

Appellant asserts that the project provides no evidence of alternate wetlands mitigation methods. Stated method is to pay for the destruction of the wetlands but this solution is stated before the due process of the application for the 404 permit. Thus far, there is no evidence to prove that impacts to the wetlands cannot be avoided.

The project applicant designed the project to avoid as much wetlands as possible, while adhering to County requirements for grading, parking and access improvements. There are also cultural resources within the adjacent parcel that needed to be considered in the project design. After considering the project constraints and protection of all on-site resources, there were no other practicable alternatives that would avoid all wetland impacts. The project proposes to impact 1.651 acres of the overall 2.73 acres of wetland onsite. The applicant has proposed off-site purchase of mitigation credits at a mitigation bank that will need to be approved by Army Corps of Engineers prior to project commencement. Under Section 404 of the Clean Water Act, projects that may impact regulated waters must first try to avoid filling aquatic resources. If the project cannot avoid impacts to these aquatic resources, then steps should be taken to minimize impacts. If there are remaining aquatic resources that cannot be avoided as a result of a project, then the project proponent has to obtain a permit from Army Corps of Engineers and provide compensatory mitigation. The project proponent will need to obtain a 404 permit from the Army Corps of Engineers. Compensatory mitigation may consist of mitigation carried out by the applicant (restoration, establishment, enhancement or preservation), purchasing credits from an approved mitigation bank, and lastly, through payment of in-lieu fees as determined to be appropriate by the Corps through its permitting process.

Appellant asserts that the project is inconsistent with the goals and policies of the Granite Bay Community Plan in regards to size and scale and protection of the rural atmosphere.

The project site is located within the Granite Bay Community Plan area and is designated Rural Estates 4.6 acre to 20 acre minimum. The property is zoned RA-B-X-4.6 acre minimum (Residential

Agricultural, combining a minimum building site size of 4.6 acres). A "house of worship" is an allowable use within the underlying Residential Agricultural zone district, with approval of a Minor Use Permit (MUP). Other non-residential uses allowed in the Residential Agricultural Zone District, with approval of a Minor Use Permit, include community centers, libraries and museums, golf courses, residential care homes, etc.

The project would provide landscaping and screening, increased setbacks, circulation planning, and a variety of other site design measures (Granite Bay Community Plan design standards for a Scenic Corridor) to minimize any visual/aesthetic impacts. Landscaping is proposed along the project's frontage (25-foot wide landscape buffer/setback), within the parking lot areas, and within an entry feature at the east side of the project site. Placement of the multi-purpose building is proposed 30 feet from the western property boundary and 380 feet from the western edge of Auburn Folsom Road. The main church will be set 135 feet from the western property boundary and 270 feet from Auburn Folsom Road. The proposed church and multi-purpose buildings would include California Mission style architecture featuring arches, colonnades, and low sloping roofs that would be integrated into the existing and proposed landscaping. The proposed grading for the building pads and parking areas are designed to maintain the natural slope of the site from north to south. Overall, the proposed project incorporates design features consistent with policies in the Granite Bay Community Plan as they relate to the size, scale, and protection of the rural environment. Based upon the above, the Planning Commission concluded the project was in fact consistent with the goals and policies of the Granite Bay Community Plan.

Appellant asserts that the project's environmental document violated the California Environmental Quality Act (CEQA) by not adequately addressing all aspects of the project's impacts; substantial evidence was presented to the Planning Commission that the project will result in significant environmental effects such that an Environmental Impact Report must be prepared.

The Planning Commission approved the Revised Mitigated Negative Declaration for the St. Joseph Marelo Church project. In doing so, it determined that in light of the whole record, based upon the evidence presented, there will not be a significant adverse effect on the environment because the project incorporated specific provisions to reduce impacts to a less than significant level and/or the mitigation measures described in the Initial Study have been added to the project. Staff believes that to continue to be true. The Initial Study for St. Joseph Marelo Church was prepared by qualified County staff that analyzed potential impacts from the proposed project. Additional scientific and factual data was provided by the applicant and consists of reports prepared by qualified professionals. These reports were used to determine the significance of the impacts and appropriate mitigation measures necessary to reduce these impacts to a less than significant level. The reports considered for the analysis included a Biological Resources Assessment, an Arborist Report, Cultural Resource Assessment, Wetland Delineation, Preliminary Geotechnical Report, Environmental Site Assessment/Soils Report, Preliminary Drainage Report, Environmental Noise Assessment, Traffic Impact Analysis and Sewerage Evaluation.

The Mitigated Negative Declaration complies with all aspects of the Placer County Environmental Review Ordinance (Chapter 18) and CEQA.

Appellant asserts that the project and its approval process violate and/or are not adequately addressed in satisfaction of the provisions of the Placer County Code 17.58.140.

As previously stated in a previous response, Section 17.58.140 of the Placer County Zoning Ordinance requires findings and conditions to allow for the approval of a Minor Use Permit. The Planning Commission approved the findings and there is evidence in the record to justify the findings. Evidence in the record includes the staff report, revised Mitigated Negative Declaration, testimony, exhibits, and relevant personal observations.

Appellant asserts that some of the Conditions of Approval are vague and/or inadequate and that the traffic impact assessment does not appear to be accurate, substantive or supportable and that there is no factual proof that the proposed overall mitigation efforts will result in satisfaction of the issues being mitigated.

The Planning Commission approved Conditions of Approval to meet specific County Code requirements as they may relate to grading, drainage, and road improvements. These Conditions of Approval also included specific mitigation measures to reduce potential significant impacts to less than significant levels as they relate to biological, cultural resources, traffic impacts, and wetland impacts. All of the adopted mitigation measures for this project are enforceable through permits, conditions, agreements, or other measures. In addition, the monitoring program would ensure compliance with mitigation measures during project implementation. In its approval of the project, the Planning Commission concluded the identified Conditions of Approval were clear, concise and understandable.

RECOMMENDATION

Staff recommends that the Board of Supervisors deny the appeal and uphold the Planning Commission approval of the St. Joseph Marelo Church project. Findings for the approval of the project are noted below:

FINDINGS:

CEQA

1. A Mitigated Negative Declaration has been prepared for this project as required by law. With the incorporation of all mitigation measures, the project will not cause any significant impacts. Mitigation measures include but are not limited to mitigation for removal and/or impacts to protected oak trees, the payment of traffic mitigation fees to reduce transportation and circulation impacts, the payment into a wetland mitigation bank for the loss of wetlands, and Best Management Practice (BMP) measures to reduce erosion, water quality degradation, and prevent the discharge of pollutants to storm water to the maximum extent practicable, and conditions that require DRC review of other project elements.
2. There is no substantial evidence in the record as a whole that the project, as revised and mitigated, may have a significant effect on the environment.
3. The Mitigated Negative Declaration as adopted for the project reflects the independent judgment and analysis of Placer County, which has exercised overall control and direction of its preparation.
4. The mitigation plan/mitigation monitoring program prepared for the Project is approved and adopted.
5. The custodian of records for the Project is the Placer County Planning Director, 3091 County Center Drive, Suite 140, Auburn, CA 95603.

MINOR USE PERMIT

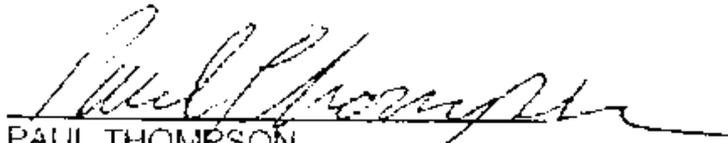
1. The proposed use is consistent with applicable policies and requirements of the Placer County General Plan and the Granite Bay Community Plan, wherein a "House of Worship" is an allowable land use in the Residential Agricultural zone district. This proposed church will use low-sloping roofs and be more residential in design (Californian mission style) than institutional to ensure that the project will remain compatible with the primarily rural residential uses found within the area.
2. The proposed project is consistent with all applicable provisions of the Placer County Zoning Ordinance; wherein a "House of Worship" is allowed in the Residential Agricultural Zone District with the approval of a Minor Use Permit.

3. The establishment, maintenance or operation of the proposed use or buildings will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort and general welfare of people residing in the neighborhood of the proposed use, or be detrimental or injurious to property or improvements in the neighborhood or to the general welfare of the County.
4. The proposed project or use will be consistent with the character of the immediate neighborhood and will not be contrary to its orderly development.
5. The proposed project will not generate a volume of traffic beyond the design capacity of all roads providing access to the project site.

MINOR BOUNDARY LINE ADJUSTMENT

1. The proposed Minor Boundary Line Adjustment is consistent with all applicable provisions of CA Government Code Section 66412 (E).

Respectfully Submitted,



PAUL THOMPSON
Deputy Planning Director

Attached to this report for the Board's information/consideration are:

ATTACHMENTS:

- Attachment A - Planning Appeal received November 20, 2009
- Attachment B - Vicinity Map
- Attachment C - Reduced Copy of Site Plans - Phase 1 & 2
- Attachment D - Approved Conditions of Approval
- Attachment E - Revised Mitigated Negative Declaration
- Attachment F - Planning Commission Staff Report dated 11/12/09
- Attachment G - Minor Boundary Line Adjustment, Conditions of Approval
- Attachment H - Mitigation Monitoring Program

cc: Gary and Evelyn Gaugler & Barry and Diane Haxton, Appellants
Dave Cook Managing Principal of RCH Group, Applicant
Chief Tony Corado, South Placer Fire District
Granite Bay Municipal Advisory Council

Copies sent by Planning:

cc: Michael Johnson – CDRA Director
Paul Thompson - Deputy Planning Director
E.J. Ivaldi - Supervising Planner
Scott Finley / Karin Schwab - County Counsel's Office
Phil Frantz - Engineering and Surveying Department
Janelle Heinzler - Engineering and Surveying Department
Jill Kearney - Environmental Health Services
Andy Fisher - Parks Division
Andrew Gaber - Department of Public Works
Amber Conboy - Department of Public Works
Angel Rinker - Air Pollution Control District
Subject/chrono files