

Maloney, Mike

From: Trippel, Andrew
Sent: Wednesday, April 7, 2021 3:08 PM
To: _PLANCOM - Planning Commission
Subject: Late Correspondence - PC Meeting 4/8 - Meeting Item 9.1 - Santa Rosa Farm Group

**** Please Do Not Reply to All ****

Good afternoon Commissioners:

Planning Staff is providing the following response to a question posed by Commissioner Peterson.

Question

The applicant has requested a 48 month extension to the Conditional Use Permit instead of the usual 24 months. My understanding is that there are typically several pro-forma extensions granted to a CUP, i.e. if it is the typical 24 month CUP there can be extensions that would extend the 24 month CUP time period to 48 months (or more). Are these pro-forma extensions available to a CUP that has a time period longer than the standard 24 months? In other words, could this CUP be looking at (potentially) an 8 year (or 96 month) time period to complete the project?

Response

[Section 20-54.050\(A\)](#) establishes an initial approval timeframe of 24 months; however, it does allow for a condition of approval to establish a different time frame. Section 20-54.050(B) authorizes the Director to extend the time limit established by Subsection A by granting up to four 12-month extensions to the expiration date of the original approval only upon the Director's determination that conditions of the site and in the vicinity are substantially the same as when the permit or approval was originally granted. The request must be submitted in writing at least 30 days before the expiration of the approval, the filing fee must be paid. The Director shall determine whether the applicant has made a good faith effort to exercise the permit or approval. The burden of proof is on the applicant to establish, with substantial evidence beyond the control of the applicant (e.g., demonstration of financial hardship, legal problems with the closure of the sale of the parcel, poor weather conditions in which to complete construction activities, etc.), why the permit or approval should be extended.

Are these pro-forma extensions available to a CUP that has a time period longer than the standard 24 months?

Yes. The Director may grant up to four 12-month extensions to the expiration date of an approval with a timeframe that is greater than 24 months, provided that the Director is able to determine that the applicant has made a good faith effort to exercise the permit or approval. However, the Commission could approve a condition of approval limiting the number of extensions for which the project would be eligible. Such a condition could be proposed by a Commissioner as a friendly amendment to the CUP resolution under review.

Please feel free to request additional information if needed.

Best,

Andrew

Andrew Trippel | Acting Supervising Planner – Current Planning

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Maloney, Mike

From: Trippel, Andrew
Sent: Wednesday, April 7, 2021 4:18 PM
To: _PLANCOM - Planning Commission
Subject: Late Correspondence - Public Comments - PC Meeting 4/8 - Meeting Item 9.1 - Santa Rosa Farm Group
Attachments: LateCorrespondence-thru-04-07-2021.pdf

**** Please do not reply to all****

Good afternoon Commissioners:

Since issuing notification of the scheduled public hearing for Meeting Item 9.1 – Santa Rosa Farm Group Cannabis Cultivation Facility, Planning staff has received public comments from three people. These comments are attached and will be published to Legistar prior to the meeting.

Please feel free to contact me with any questions.

Thanks,

Andrew

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From: [Trippel, Andrew](#)
To: [Trippel, Andrew](#)
Subject: 800 Yolanda public comment
Date: Tuesday, April 6, 2021 4:56:59 PM

Harvest Park resident - Summer Creek
Megan

1. Project scale/size is too large to be up against residential uses.
2. Most houses are 1-2 stories. Even the existing commercial development that we back up to is only 1 story.
3. Proliferation of cannabis uses along Yolanda.
4. Neighborhood "law enforcement" security cites influx of out of town persons committing crime.
5. Concerns about environmental review. Does not sufficiently address wildlife that residents see on regular basis – red fox, perhaps CTS.
6. Original project presentation by applicant did not include residential development to the south.

Would like to see the project scaled down. Three stories tall and 24-hour operation is too much for this site adjacent to residential.

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Notes from phone conversation between staff and resident.

From: [Trippel, Andrew](#)
To: [Trippel, Andrew](#)
Subject: 800 Yolanda public comment
Date: Wednesday, April 7, 2021 8:46:10 AM

Harvest Park resident - Summer Creek

1. Project scale/size is too large to be up against residential uses.
2. Most houses are 1-2 stories. Even the existing commercial development that we back up to is only 1 story.
3. Proliferation of cannabis uses along Yolanda.

Would like to see the project scaled down. Three stories tall and 24-hour operation is too much for this site adjacent to residential.

Andrew Trippel | Acting Supervising Planner – Current Planning

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From: [Jan Vazquez](#)
To: [PLANCOM - Planning Commission; Trippel, Andrew](#)
Subject: [EXTERNAL] 800 Yolanda on April 8th agenda
Date: Tuesday, April 6, 2021 7:07:29 PM
Attachments: [800 Yolanda, comments to PC.docx](#)

Please see attached letter.

Jan Vazquez

April 6, 2021

RE: 800 Yolanda Avenue; Use Permit and Mitigated Negative Declaration

Dear Members of the Planning Commission,

The process of hearing the applications for this project is discombobulated. You are being asked to adopt a Mitigated Negative Declaration (MND) on a project you literally have never seen. The Design Review should be a part of this public hearing; instead, there was no public notice for the Design Review and the Commission cannot take public hearing comments on the Design Review.

Part of the environmental review addresses the visual impact and that is at the heart of neighborhood opposition. The public notices states that a 3-story building is proposed. The height is never mentioned. It's proposed to be 55' in height – the visual equivalent of a 5-story building (10' per story). That height is out of context from *all* of the surrounding development. But, the MND and Use Permit that you are asked to approve at this April 8th meeting will lock in 116,700 square feet of development on this lot and would not address any design changes the Commission might require in the Design Review hearing. The Use Permit would allow a reduction of parking spaces from the required 159 to 74. Does the Commission really want to lock that in without seeing the project? *I urge you to hold a public hearing on the Design Review, Use Permit and MND together because one is inextricable from the other.*

The Initial Study analysis is entirely faulty because the project description excludes identification of the future use of 2.24 acres of the lot (on eastern side and a portion at the front of the lot on the Yolanda street sidewalk) and, consequently, does not provide any analysis of the cumulative impact of the full development of the lot. To quote from the AEP CEQA Portal, “For a phased development project, even if details about future phases are not known, future phases must be included in the project description if they are a reasonably foreseeable consequence of the initial phase and will significantly change the initial project or its impacts. *Laurel Heights Improvement Association v Regents of the University of California* (1988) 47Cal.3d 376.” In short, to simply label the eastern 2 acres “not a part of the project” is inadequate under CEQAs requirements for analysis.

The environmental consultant, Terraphase Engineering, in the Response to Comments claims segmenting portions and labeling them “not a part of the project” is commonly done. I disagree. Most importantly, *this is one lot*. The consultant may be aware of instances where this has been done, but I suspect those instances have never been subjected to the scrutiny of a court. What must be considered is what the CEQA Guidelines provide and what case law precedents have been set. Again the AEP CEQA Portal notes:

Segmenting means dividing a project into two or more pieces and evaluating each piece in a separate environmental document, rather than evaluating the

whole of the project in one environmental document. This is explicitly forbidden by CEQA, because dividing a project into a number of pieces would allow a Lead Agency to minimize the apparent environmental impacts of a project by evaluating individual pieces separately, each of which may have a less-than-significant impact on the environment, but which together may result in a significant impact.

There are circumstances where areas can be labeled “not a part of the project”. In *Del Mar Terrace Conservancy, Inc. v. City Council* (1992) 10 Cal. App 4th 712, the court ruled individual segments of a lineal project, like a highway, could be evaluated separately if they have logical termini and independent utility. But, *this project is only one lot*.

It is important to review what has been said about the project by the applicant’s representative and to look at the site plan to recognize that *there are future plans* for the lot beyond what has been described to date. The minutes of the Neighborhood Meeting and Community Outreach, page 2, record the applicant’s representative saying, “Additionally, the applicant has agreed to maintain the water tower’s presence...pending City approval of future development”. There is no water tower shown on the development plans, which the Planning Commission has yet to see.

The site plan, which the Planning Commission doesn’t have yet, shows an unidentified rectangular area of land at the Yolanda street sidewalk. The parking lot and main building wrap around it. But, if you have a copy of the public notice postcard you will find the vacant land shown as a dark area to the left side on the visual simulation. It sure looks like the footprint of a future building. Given the position at the sidewalk it looks like a good place to put a retail building.

When the City last updated the General Plan, I assume this lot was identified as underutilized and assigned development potential under the zoning district and accordingly, projected future traffic generation. To segment the project and declare there is no development anticipated for roughly two-fifths of the lot flies in the face of the General Plan.

I am extremely concerned that the environmental analysis of the visual impact is inadequate. The single photo simulation of the proposed development showing its massing is inadequate for the public or Planning Commission to assess the project’s compliance with the General Plan and design guidelines goals for neighborhood compatibility. In my response to the Initial Study, I wrote:

The view is from bird’s eye level, which is to say drone level, never seen by the passing public. The perspective foreshortens the height of the building. I suggest the following simulations to assist the public and city to better envision the project:

- Drivers’ views on Petaluma Hill Road, both northbound and southbound.

- A streetscape of the full length of the south side of Yolanda Avenue from Santa Rosa Avenue to Petaluma Hill Road showing the existing buildings and the proposed to illustrate the massing and spacing of development in proper context.
- One or more pedestrian, street level views of the front of the proposed development with existing residential development on Summercreek Drive shown and simulated future residential development when the extension of Summercreek is completed.
- An aerial photo showing both sides of Yolanda Avenue from Santa Rosa Avenue to Petaluma Hill Road delineating the average front and rear setbacks of existing buildings and showing the footprint of the proposed building locations.

The response to the comment was that further visual simulations are not necessary to proceed with the project. The original purpose of CEQA was to provide the public, the *layman*, an understanding of what environmental impact could be associated with a project. Whether to require additional simulations in order to render a decision on the applications is a judgement call of the Planning Commission based on the review of the plans, testimony of the public and the commissioner's *common sense*.

I must point out the one visual simulation is seriously flawed. Houses abutting the project along Summercreek Drive are shown at the back of the lot as a series of boxes with gabled roofs. The houses are in fact two-story buildings. The roof of the proposed building is shown to be at the same elevation as the *lowest point of the roof eave* on the house gable. That would imply the proposed building is something of a tall one-story building or maybe a bare 20 foot two-story building. At 55' the proposed building should be shown towering over the small homes. That would be accurate.

Is the environmental consultant directly hired by the applicant? At one point in time, that was the information I was given. If so, that is a practice that needs to be stopped because there is an obvious conflict of interest. Applicants would look to hire an environmental firm that has a track record of manipulating the process and/or providing biased analysis to get a project approved. In most jurisdictions the city planner hires the consultant at the financial expense of the applicant and staff reviews the work for completeness and accuracy before it becomes public. To do otherwise opens the process to abuse. The people of Santa Rosa –its residents, businesses and property owners – deserve an environmental review that is complete and free of bias to provide the decision makers, who represent them, the information needed to make decisions that support the public welfare.

I urge the Planning Commission to take testimony, but continue the public hearing to a date when the Design Review, Use Permit and MND can be heard together.

Very truly yours,

Jan Vazquez

Owner of 2431 Summercreek Drive