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2 **C. TR6569 Greg Woehrle (Applicant), Soldier Field Partners, LLC (Owner); LR Zoning**
3 **and H-O-D:** Request for a subdivision of 87.9 acres into eight residential lots and one
4 remainder open space lot pursuant to Part 6, Lafayette Municipal Code and California
5 Government Code Sections 66410 et. seq., located at 3148 Lucas Drive. APN 238-080-
6 019. **Review of Draft Environmental Impact Report.**

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8 **HDP86-04 Greg Woehrle (Applicant), Soldier Field Partners, LLC (Owner); LR**
9 **Zoning and H-O-D:** Request for 1) Hillside Development Permit for a subdivision of 87.9
10 acres into eight residential lots and one remainder open space lot pursuant to Chapter 6-
11 20, Lafayette Municipal Code (LMC); and 2) An exception to development within a Class I
12 Ridgeline pursuant to Section 6-2026 LMC, located at 3148 Lucas Drive. APN 238-080-
13 019. **Review of Draft Environmental Impact Report.**

14 **Recommendation:** Complete public hearing; conclude comments from the Planning
15 Commission, and direct staff and the EIR consultant to prepare the responses to
16 comments and final EIR for the Solider Field Subdivision.

17 **Project Planner:** Christine Sinnette, Tel: 925-299-3241, csinnette@lovelafayette.org

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19 Chair Humann recused himself from this item and left the meeting at 8:27 PM.

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21 The Commission took a break at 8:27 PM.

22
23 The Commission resumed their meeting at 8:35 PM.

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25 The Commission was handed out a packet of correspondence received between November 17 and
26 December 1, 2005. These included a letter from Ronald and Iris Hillman, a letter from Circulation
27 Commission Chair Ellen Poling, the minutes from the Circulation Commission hearing on the EIR held on
28 November 7, 2005, a letter from David and Carol George, 3 photos of the site from different views, a letter
29 from the East Bay Regional Park District, and a letter from Clifford Tong representing BurtonValley.com.

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31 Ms. Sinnette said the purpose of this hearing was for continued input from the Commission and the public
32 on the draft Environmental Impact Report (EIR) for the Soldier Field project. The statutory period for
33 review ended November 25, 2005 but CEQA can allow for a maximum 60 days. The completion of the
34 review period is December 2, 2005. CEQA does not require a public hearing on the final EIR but it is
35 anticipated that the Planning Commission will have at least one public hearing on the final EIR. No
36 determination or review on the project applications is being made at this time. Staff recommends that the
37 Commission complete the public hearing, conclude their deliberations, and direct staff and the EIR
38 consultant to prepare the responses to comments and the final EIR.

39
40 David Bowie, attorney for the applicant, said this was the third hearing on the draft EIR. He finds the draft
41 EIR is carefully put together and he largely supports the comments the EIR has made on the merits of the
42 project. He will submit written comments to the EIR consultant and the Planning Commission in keeping
43 with the deadline. There has been discussion on the neighborhood extension alternative and it has been
44 suggested that this was the environmentally superior alternative to their proposal. They do not agree with
45 that. The neighborhood extension alternative has three homes located in the Class I ridgeline, and all of
46 the homes would be within a Class II ridgeline and so they would still require exceptions. They have
47 overlaid the roadway and easements that exist to serve the PG&E substation and tower at the top of the
48 hill, all of which are public easements. According to the neighborhood extension alternative, the roadway
49 actually goes through and is inconsistent with the proposed site locations, which would make this
50 alternative not feasible. The draft EIR consultant mentioned that although there are less visual impacts
51 with the neighborhood extension alternative, there would be an increase in the soil and geologic hazards.
52 Also with this alternative, the homes would be clustered on smaller lots, which heighten soil, slope,
53 geologic, and privacy impacts. From an economic standpoint, they will have to make a determination if
54 there is a feasible way to develop this property. There are a number of concerns regarding visual and
55 privacy impacts, however the draft EIR concluded there were no environmental impacts that could not be
56 mitigated. One landscaping is imposed; he does not feel there would be any visual impacts. The
57 Commission would have to make the same findings with both proposals in terms of setbacks.

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Vice Chair Ateljevich opened the public comment period on this item.

Brad Kisner, 3159 Lucas Drive, said as far as the Lucas Drive extension, the grey area of the map represents the ridgeline and believes they could study an option outside of the setbacks with smaller lot sizes. He disagrees with the consultant's findings that all of the environmental impacts could be mitigated to less than significant. The last speaker suggested that landscaping was a viable option but the area has very little topsoil. The privacy mitigations are not specific in the EIR and suggests they can deal with them at a later date, and feels they should address specific sites where privacy issues could be addressed.

Mr. Kisner said the cumulative impacts of development degrade the roads, drainage systems, traffic, and impact schools. He could not find in the EIR where the impact on schools is addressed. This project and other future projects affect Burton Valley feeders and arterial roads. At the last hearing, he submitted to staff six separate locations where the story poles could be seen. These include Lot 8 from Lucas Drive at Lucas Circle, the top of Rohrer Drive where it hits Reid, the trail above the ball fields, the intersection of the Bruzzone and public trails easement, and Burton Valley at the north entrance, which are all significant views.

Vice Chair Ateljevich said at the last hearing, Mr. Kisner favored the neighborhood extension alternative but that he did not mean the one in the EIR.

Mr. Kisner said that was correct.

Commissioner Mitchell said that they did not know what Mr. Kisner's neighborhood extension alternative was.

Christian Claytor, said he represented Mr. Goldwyn of 2750 Rohrer Drive, and that in Section 3.2 of the draft EIR, the consultant does a number of findings regarding the Lafayette General Plan and also applicable code sections of the Lafayette Municipal Code. Mr. Goldwyn does not agree with those finding and if the Planning Commission certifies a final EIR that it would make provision for a de novo so that the public could comment at that point.

Commissioner Mitchell asked staff to respond to this.

Scott Smith, City attorney, said the Planning Commission intends to follow that policy. What is in the EIR is a draft summary of how these issues might be addressed but the application is not yet before the Commission. There will be a de novo hearing on the final EIR.

Brad DeLong, 1 Lucas Court, said he was the closest downhill neighbor to the site, and feels his concerns are not met. It is critical that this project be designed appropriately so that it doesn't put existing properties at risk and adequately protects their privacy and other interests. He doesn't feel the EIR addresses this, and needs additional study and comments. Their house does not exist in the draft EIR. The house on Lot #2 would loom over their house, and would not be obstructed by any vegetation.

Mr. DeLong said there are references in the EIR to swale A and that there would be additional water flows from lots 2 and 3, and that this would be mitigated by channeling water away from these lots through storm sewers on Lucas Drive. They get a lot of water, silt and mud and he would like to see the flow reduced. The draft EIR does not make them feel this would be the case. They are opposed to Lot #2 and would like the house further away from their property for site lines, runoff, and privacy.

Marie Blits, 3166 Lucas Drive, expressed concerns with the instability of the soil, drainage, and privacy as the Goldwyns and other neighbors around the area. If you go through the City codes, you could identify in theory, mitigations that might take place. The draft EIR is supposed to look at real mitigations for substantial impacts. They need to take great care to study mitigations that could actually occur, and feels they need to have real mitigations to look at. She agrees with the letter Mr. Tong sent on behalf of burtonvalley.com dated November 29, 2005.

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2 Commissioner Mitchell said in Mr. Tong's letter he felt a certain area needed more study and wondered
3 what area this was.
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5 Ms. Blits said this was regarding geologic instability, drainage and privacy issues. She felt it was
6 inappropriate to deal with issues without the homes having been sited. The privacy issue is profound for
7 her and several of her neighbors.
8
9 Mr. Bowie said he agreed with the City attorney that the process is one where there will be an actual
10 application submitted for review at the appropriate time.
11
12 Vice Chair Ateljevich asked if they had submitted an application.
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14 Ms. Sinnette answered that there was but it was not before the Commission at this time.
15
16 Vice Chair Ateljevich said they still have to find that this document represents the Commission's views.
17
18 Mr. Smith said the Commission certifies this as a full disclosure of all impacts and mitigations are
19 identified, and if there is substantial evidence to support that.
20
21 Mr. Bowie said the Commission is not required to agree with the draft EIR but to use it as a resource
22 when they review the formal application.
23
24 Vice Chair Ateljevich said they need to find the mitigations are appropriate and can be implemented.
25
26 Mr. Bowie said every application the Commission considers usually deals with privacy and screening
27 issues. Privacy is a balancing process having to deal with the siting of the house and balancing that with
28 the existing homes and the new people moving in. The suggestions that privacy can be mitigated with
29 landscaping are obviously true, and the Planning Commission imposes that all the time. It is not true to
30 suggest that these are mitigations that are made up by the consultant. The Planning Commission uses
31 them all the time.
32
33 Commissioner Chastain said he did not think the speaker said the mitigations were made up. They are
34 concerned that the mitigations are adequate and a workable proposition. You can propose something
35 with the best of intentions and not have it actually work. Privacy is not just screening from house to
36 house, public/private area, and front to back areas. They are concerned whether this is a mitigation that
37 is truly understood and whether it can succeed.
38
39 Mr. Bowie said whether it is a feasible mitigation will be determined when the application comes before
40 the Planning Commission. The point is whether the EIR consultant has addressed the mitigation
41 measures and that is the case here. Since these measures are routinely imposed by the Commission,
42 and successfully, they would be feasible as used before
43
44 Commissioner Lovitt asked if they were limiting themselves to the mitigations in the EIR.
45
46 Ms. Sinnette responded yes that was true but there might be a difference between what is mitigating an
47 environmental impact and what could be a condition of approval. The Commission is not limited to
48 mitigations necessarily and they could be modified at a later date and made a condition of approval.
49
50 Commissioner Holt said in the EIR landscaping is a mitigation, and he could accept that. When they get
51 to a specific tree here or in that spot they have the opportunity to say yea or nay based on their expertise
52 and those of the consultants.
53
54 Ms. Sinnette said that was true when they are reviewing the project and they can make specific
55 conditions.
56

1 Mr. Smith said the EIR to a great extent, especially when they are looking at land use impacts,
2 presupposes regulatory compliance. At a later date, the Commission will make a finding and impose
3 conditions and mitigations that substantiate regulatory compliance. Economic impacts are mentioned
4 because they are germane to this process and are needed to quantify the number of exemptions
5 necessary, and also decide how it is in compliance with the ordinance. When the Commission completes
6 that process, there is all the opportunity in the world to double back with information uncovered in that
7 process and add it to the EIR either in the response to comments or in an addendum to the EIR.
8

9 Commissioner Lovitt said they were not approving eight houses, their siting or the mitigations or what
10 mitigations would work. They are attempting to see if the EIR covers the bases for where they are right
11 now.
12

13 Mr. Bowie said the document provides some background to use later. Someone mentioned the EIR does
14 not address a particular home and he does not think that makes the EIR inadequate. The EIR addresses
15 the project and not necessarily all the neighbors around the area. Regarding issues of hydrology and
16 geology, there will be a more thorough study of these issues when the specific application comes before
17 the Commission.
18

19 Vice Chair Ateljevich closed the public comment period on this item.
20

21 Commissioner Mitchell said there were a lot of mitigation measures and wondered if they were to concern
22 themselves with the adequacy of the current state of the geologic analysis to date or is it adequate for
23 them to hope that it will work out.
24

25 Mr. Smith said hope was not enough. He cited some CEQA cases. In the Galeta case, he did not know
26 what the project was or the mitigations but it was either coastal or biological permits, yet the project was
27 approved. The Old Town Sacramento case has to do with reconstruction and rehabilitation of Old Town
28 Sacramento. In that case there needed to be a parking mitigation. The EIR identified a long menu of
29 parking answers that the City was bound to adopt up to the amount necessary for the project. That was
30 challenged under the Goleta case where there is a menu of clearly identified mitigation measures; more
31 information was needed to define which one. Each of them in certain combinations would have mitigated
32 the impact. That approach is legal and adequate under CEQA. This document approaches the
33 geological impacts similar to the Old Town Sacramento approach which is to define by way of the City
34 engineer mitigation measures to make these homes constructable and that would adequately mitigate
35 potential impacts on the neighbors and occupants of these houses. The Old Town Sacramento approach
36 is that it does have to add up. The approach he has described is that no where are there defined
37 mitigation measures, and they know will further study which ones will fly with the City engineer. There is
38 a tool box of mitigations that will work.
39

40 Commissioner Mitchell said when they finally get to the application phase in this process, after the
41 economic analysis, there will be a determinant number of homes decided with specific locations, and yet
42 it sounded to him from the document that the soils analysis would happen after they have chosen those
43 locations, and wondered if that was putting the cart before the horse.
44

45 Ms. Sinnette said the EIR looks at the macro picture. With any project they can mitigate geologic and soil
46 instability problems. The EIR is looking at the big picture of what is being proposed now, what landslide
47 areas need to be repaired. What they don't have is the subsurface study and that is done typically at the
48 design stage. The Planning Commission decides the siting of the homes and in those types of projects
49 the subsurface study is not done until the applicant is ready to apply for a building permit. These are
50 preliminary geologic studies.
51

52 Vice Chair Ateljevich said that was true but there are planning issues with the geology. Some mitigations
53 have to occur with large landslide repairs and they might not want to put a house where a lot of repairs
54 are needed.
55

1 Commissioner Holt said that he thinks staff is saying that with enough money and engineering, they can
2 fix anything but at this point, the Planning Commission could approve the EIR, and then disapprove the
3 application because it is not mitigated correctly.
4

5 Commissioner Chastain said at the last meeting they discussed how the privacy problem was described
6 and was it between the proposed houses. They wanted to add some language that there were also
7 mitigation measures proposed but they might argue that those proposed mitigations measures did not
8 seem like they were going to solve the problem. Once they arrange houses, if they don't deal with the
9 proposed mitigation measures, are they stuck with those mitigation issues or can we later say it still
10 doesn't do the job.
11

12 Mr. Smith said they could come back. This is not so much about how that point is made on the land use
13 permit as about whether there are significant land use impacts between what's on the application and
14 what's on the ground. This is intended to be a tentative finding but the easy way out of it is not to do it.
15 The project will conform to all applicable regulations. This is the hard way of doing it. Whether the permit
16 is issued subject to the standards base or a design base condition can be made part of the mitigation
17 measures.
18

19 Commissioner Chastain asked if that could be included.
20

21 Mr. Smith said that was not uncommon as they relate to general mitigation measures and there's a finer
22 point that can be supplemented. It can be added as a condition of approval or made part and parcel of
23 the mitigation laundry list. A good mitigation monitoring program would anticipate that possibility and
24 have a substitute solution.
25

26 Commissioner Chastain said if they find a way of a performance proposition instead of a problem-solving
27 proposition, then that starts to solve some of his dilemma.
28

29 Commissioner Lovitt said he looked at the EIR as "here are the red flags" and "here are mitigations",
30 which are two different things that they will have to look at.
31

32 Mr. Smith said this was especially true in the context of land use impacts.
33

34 Commissioner Holt said the EIR was not an application.
35

36 Vice Chair Ateljevich said on section 3.2 at the bottom of page 18, where it says conserve a variety of
37 open space (Policy OS-1.3); she does not think they can say no mitigation is required.
38

39 Vice Chair Ateljevich said on page 1 of aesthetics, regarding visibility, there are more places such as
40 Rohrer Drive that should not be dismissed so easily as that is a fairly common view.
41

42 Commissioner Mitchell said there were 6 locations that should be responded to.
43

44 In response to a comment from Commissioner Lovitt, Vice Chair Ateljevich said the standard of visibility is
45 whether it's concealed by existing vegetation or terrain, and that is the only standard.
46

47 Ms. Sinnette said regarding the comment in Table 3.3-1 about visibility from Deer Hill Road and Highway
48 24, what the document says is portions of the Lucas Ranch site were visible but the homes sites were
49 not. The term distance is used as an explanation of why the home sites cannot be seen as an excuse for
50 not considering views from those locations in the analysis. The homes sites could not be seen because
51 they were too far away. She felt the problem was that the word distance is being misinterpreted.
52

53 Vice Chair Ateljevich said on page 3.3-6 they discussed the Burton Valley Ridge development guidelines.
54 The sketch master plan was deliberately deleted by the City as creating unreasonable expectations for
55 development. Portions were passed on to Council but it was not the sketch master plan that was adopted
56 on December 14, 1987 but portions of it. One of the determinations (5) made in the Burton Ridge
57 guidelines is that projects shall be designed in a manner so that there will not be additional peak time

1 storm drainage runoff. The Contra Costa County Flood Control District through the review of the EIR or
2 other project development documents shall provide verification of this criteria being met. That is where
3 they set that policy but there should not be any peak flow increases to Las Trampas Creek or any of the
4 other creeks as a result of development in the Burton Valley Ridge.

5
6 Commissioner Lovitt said in section 3.3.3.2 at the top, it states the proposed project would result in
7 significant impact if it would have a substantial adverse affect on a scenic vista, substantially damage
8 scenic resources or substantially degrade existing character or quality of the site.

9
10 Ms. Sinnette said this was part of the initial study that was approved and is state mandated. The
11 threshold of significance is established by the City and from state guidelines.

12
13 Commissioner Lovitt said on the top of page 3.3-23, it states landscaping would also help substantially
14 conceal the project. Is that the same as appearing to be essentially undeveloped?

15
16 Vice Chair Ateljevich said it was not.

17
18 Commissioner Lovitt said that if it did not appear to be essentially undeveloped then it does not reduce
19 the impact to a less than significant level.

20 Commissioner Holt said he did not necessarily agree. He would like to see the word "would" changed to
21 "could".

22
23 Vice Chair Ateljevich said in mitigation 3.3-1, it considers species that can grow in ten years time. This
24 might not be possible with the soils and growing some of these trees would require a lot of water.

25
26 Commissioner Holt said he felt the 10-year time frame was too restrictive.

27
28 Vice Chair Ateljevich said regarding non-native plants they had better be very small. [Inaudible]. They
29 should use fast growing species.

30
31 Commissioner Lovitt said at the bottom of page 3.3-24 (Potential Impact 3.3-3), it says that the
32 development would not be visible from many public viewing locations but it would be visible from adjacent
33 and nearby private properties. It is visible from many public viewing places and wondered if this was the
34 place to say that.

35
36 Commissioner Holt said no because the place to say it would be in the application.

37
38 Commissioner Holt wondered why mitigation measure 3.3-1b, paragraph b had to be so specific about
39 two 15-gallon trees.

40
41 Vice Chair Ateljevich said that was not consistent with the tree ordinance. They should use the tree
42 ordinance and not use a separate rule for this project.

43
44 Commissioner Lovitt said he agreed.

45
46 Commissioner Holt said regarding the first paragraph on page 3.3-25, he wondered if that adequately
47 addressed some of the concerns.

48
49 Commissioner Chastain said somewhat. A lot of this is an issue of siting and design and what he is
50 struggling with sometimes with this document is making sure it does not back them into bad decisions
51 that then they have to mitigate. He would rather make good decisions. As he understands it, this will not
52 say what the project is but provides a basis for discussion. He would like the EIR to review privacy
53 beyond just screening and actually describe what are the siting issues relative to privacy. They would
54 then have information about what the problems are and what the options are and how can this be
55 addressed in a positive way. He would like to have that information included in the document as a
56 potential mitigation.

57

1 Commissioner Mitchell wondered how to get that into the document.

2
3 Commissioner Chastain said they referenced back to initial design guidelines and that was where to
4 begin to deal with this issue in the reasoning and concepts behind the subdivision plan, which
5 conceivably would be in the design guidelines. He does not want that document referenced but they
6 should refer to it where it addresses the issue. The design guidelines ought to address privacy as a
7 design issue and performance issue and not just as a screening issue.

8
9 Ms. Sinnette said the mitigations now are based on the design guidelines submitted with the application.
10 Commissioner Chastain is suggesting that they could make a mitigation measure that specifies what he
11 wants the design guidelines to address.

12
13 Commissioner Mitchell said putting together a document of that type was beyond the scope of the
14 Planning Commission.

15
16 Commissioner Chastain asked if the EIR would state or help guide the criteria for that document as that
17 would be something produced by the applicant and not by the Commission.

18
19 Mr. Smith said if they were relying on that to make a finding that these impacts are mitigated, at least the
20 parameters of those guidelines ought to be described here.

21
22 Commissioner Chastain said then what he heard is that they have to be very specific about what the
23 guidelines have to deal with.

24
25 Mr. Smith said the conclusion about the extent of the impacts and mitigation has to be based on
26 substantial evidence about what it must contain.

27
28 Commissioner Chastain said then it would be appropriate that they would require design review
29 guidelines to raise issues of privacy as related to subdivisions and siting in the neighborhood context not
30 just screening.

31
32 Vice Chair Ateljevich said she thought in the land use chapter where they first talked about the guidelines
33 would be the place they would want to put that.

34
35 Commissioner Chastain said he thought they had to do something in that respect, since they decided
36 they would not reference this to previous design guidelines. He felt the EIR should reference back to it in
37 the way they want the issues to be addressed.

38
39 Commissioner Mitchell asked it would not limit them to closing this draft section but it would come back to
40 the Commission in the application.

41
42 Mr. Smith said the residential design review guidelines were referenced on page 3.3-25 and were used to
43 design the project at this stage. If, for example, siting and window locations are important to the Planning
44 Commission that could be called out in the EIR.

45
46 Vice Chair Ateljevich asked if they could go through the design guidelines and take out those portions
47 they want and add what they want to add to it.

48
49 Commissioner Mitchell said this was a huge task and he was uncomfortable with placing the burden on
50 Commissioner Chastain. The problem he had with the original design guidelines is not just that they were
51 old but it made a lot of references to 28 units that were not applicable. He thinks that it is a burden that
52 staff should take and Commissioner Chastain should review.

53
54 Vice Chair Ateljevich said one of the design goals of the master plan is to site and orient each one to
55 optimize privacy. They want to change that.

56

1 Commissioner Chastain said he was happy to review decisions and provide input for staff. It is not a bad
2 document. Are they aiming their comments in the right place? There is a tremendous amount of concern
3 regarding the impact of this project on privacy off-site. They need to make sure the mitigation issue is
4 understood in the context of neighboring houses and not just houses that are adjacent to the project. Is
5 the language good enough? They could ask that of the design guidelines and that would be enough to
6 satisfy the issue that the privacy problem is not unambiguous and the mitigations have to be related to
7 that.

8
9 Commissioner Holt said that was good enough for him.

10
11 Commissioner Mitchell said that was good enough for him also.

12
13 Vice Chair Ateljevich asked if they could make a list of what they want addressed.

14 Commissioner Chastain said he thought they could make a simple list. Privacy is a major issue within the
15 larger neighborhood context and an issue of siting, and arrangement of houses. Geology, landscape,
16 and drainage were addressed before but they would want them addressed in a more specific way.

17
18 Vice Chair Ateljevich said she assumed the way the one story house was measured was not the same as
19 the City, which has a unique way of measuring height.

20
21 Ms. Sinnette said it was measured from lowest grade to peak of the roof.

22
23 Vice Chair Ateljevich said then it was 15-feet high in every place.

24
25 Ms. Wheeler said that as Ms. Sinnette said it was 15-feet in height from the lowest grade to the peak of
26 the roof.

27
28 Commissioner Holt said it needed to be consistent with what the City uses.

29
30 Ms. Sinnette said they should clarify that for purposes of the EIR and use the method the City has
31 approved, which is the average of the lowest and highest foundation wall. This is the type of thing the
32 Commission should be correcting in the EIR.

33
34 Vice Chair Ateljevich said she thought they should test the slope drawing.

35
36 There were no comments on the air quality resources portion of the EIR.

37
38 Commissioner Mitchell said in paragraph g. on page 3.5-21, it stated, "Cutting and filling within the
39 dripline of trees shall be avoided". His question was, "Is avoidance consistent with the City's tree
40 ordinance?"

41
42 Vice Chair Ateljevich said the tree ordinance doesn't address that but it is a tree protection measure.

43
44 Commissioner Chastain said the EIR does not trump their ordinance.

45
46 Vice Chair Ateljevich said on page 3.5-15, mitigation 3.5-1, regarding moving several houses to avoid
47 wetlands, lot 1 is uphill then turn to lot 3 uphill, this is out of kilter.

48
49 Commissioner Holt said with the application they will be concerned about visibility and it might drive them
50 to a variance. He feels they have to decide that when they get there and agrees they can't be moving the
51 sites around now.

52
53 Commissioner Mitchell noted on page 3.5-22, mitigation 3.5-5d, it stated that lot 8 shall be located at least
54 10-feet away from the dripline of the 36 inch diameter oak tree.

55
56 Vice Chair Ateljevich said the proposed location of the house is too close to the tree. To say that the
57 house should be at least 10-feet away from the tree is probably adequate.

1
2 Commissioner Holt asked wouldn't an arborist would be involved at some point.
3
4 Vice Chair Ateljevich answered that was correct.
5
6 There were no comments on the cultural resource section of the EIR.
7
8 Commissioner Mitchell said in mitigation 3.7-3a, in the last sentence of the paragraph says testing during
9 construction. This was an issue that had been brought up before and the City attorney said that testing
10 during construction was okay.
11 Vice Chair Ateljevich said this did not bother her. The geologist said he would address concerns
12 regarding repairs. No place in the document does it state which lots will have repairs and they need to
13 know that as well as what trees will be impacted, and feels they need that information.
14
15 Commissioner Holt said he did not agree and feels it was taking this too far.
16
17 Vice Chair Ateljevich said she felt they have every right to know at this point which lots are going to be
18 repaired.
19
20 Commissioner Lovitt said on the bottom of page 3.7-13, impact 3.7-3, states Therefore the proposed
21 project could expose people or structures to the risk of loss, injury or death from the collapse or failure of
22 proposed structures. That is notice.
23
24 Commissioner Mitchell said he agreed that was notice but it was not defining what was going on.
25
26 Commissioner Lovitt said routine mitigations are being proposed for what might not be a routine problem.
27 He wondered if there is something else they should be talking about in the EIR.
28
29 Commissioner Chastain said the concern is are they in a position to adopt these mitigation measures, do
30 we understand they will work, is it sufficient, and do they have to have that level of scrutiny or can we say
31 later they are not.
32
33 Commissioner Holt said that was why they have the City Engineer and the City Attorney to give the
34 Commission their expertise.
35
36 Commissioner Chastain said he cannot draw the conclusion and he does not want to. Is he forced to say
37 that these mitigation measures are sufficient, and if not, do they have another means to address this at a
38 later time. Commissioner Chastain said if we find the mitigation will not succeed then they can deny the
39 application
40
41 Vice Chair Ateljevich said you cannot change the law.
42
43 Vice Chair Ateljevich asked if they had received a response from the school district.
44
45 Commissioner Holt said this had come up in the past, and it was resolved. There is a law or state policy
46 that says if the school is impacted then the school has to object.
47
48 Mr. Smith said the City has the right in this process to measure the gap between student population and
49 facilities but it can impose no mitigation other than the statutory fees.
50
51 Commissioner Holt said then they could not deny a project because of local schools.
52
53 Mr. Smith said they could not deny it nor impose mitigation beyond imposing statutory fees.
54
55 Commissioner Mitchell said on page 3.9-10, mitigation 3.0-4c, states about working at 7AM on Saturday
56 and wondered if they had the discretion to change that to 8AM to allow people to sleep later.
57

1 Vice Chair Ateljevich said they could do that with the application.
2
3 Commissioner Mitchell referred to mitigation measure 3.9-4c.
4
5 Commissioner Holt said that was too specific and they would take this up under the conditions of
6 approval.
7
8 Commissioner Mitchell said then they could modify the mitigation measures after the fact.
9
10 Mr. Smith said if the impact that remains is significant because there is work between 7 and 8, then they
11 need to mitigate that and if starting at 8 is a feasible mitigation measure, they need to impose that. If the
12 difference between 7 and 8 is a difference between significant and non-significant then they need to
13 tackle that right now.
14
15 Commissioner Holt wondered why they couldn't say the mitigation is the ability to change work hours.
16
17 Vice Chair Ateljevich asked to change the start time on Saturday to 8AM and the Commission agreed by
18 consensus.
19
20 Commissioner Mitchell said on page 3.10-7, the fire district refers to a 36-foot wide road, and wondered if
21 this was beyond the scope of the Commission.
22
23 Vice Chair Ateljevich said she felt it was not and wondered if in project review they could narrow that
24 road.
25
26 Mr. Smith said the Commission did not have the jurisdiction to do that but could work in cooperation with
27 the fire district.
28
29 Commissioner Mitchell said in mitigation measure 3.10-1a it discusses minimum road with 36-feet.
30
31 Vice Chair Ateljevich said they could say this was okay if parking were permitted on both sides of the
32 street because that was standard and what the fire district said. They usually don't like to see parking on
33 both sides of the street and felt they could negotiate this with the fire district.
34
35 Commissioner Mitchell said in regards to transportation, in the traffic study in figure 3.11-2, southbound
36 on Burton Drive and turning right on Silverado, it looks as though there are 2 trips in the morning and 10
37 trips in the afternoon. This was taken on Tuesday, April 19 which he assumes is a school day and there
38 are more than 100 vehicles coming up Burton Drive and turning right on Silverado because there are 800
39 students and half of them come up that street. He wondered as to the accuracy of the numbers. He
40 would like this reviewed and would like a response.
41
42 Ms. Sinnette said she the Circulation Commission did not have a specific comment on this. She included
43 the correspondence and minutes from the Circulation Commission in their agenda packet.
44
45 Commissioner Mitchell said he would like an answer because the way he is reading it, there is no way
46 that could be accurate. He does not necessarily doubt the impacts of the project on the area but he
47 doubts the accuracy of the numbers.
48
49 Vice Chair Ateljevich said on page 4-2, the project list, does it include all the projects going on.
50
51 Commissioner Holt said it was logical not to assume the inclusion of projects that were not under
52 application.
53
54 Commissioner Mitchell said there was no mention of the intersection of Michael and Glenside, which will
55 be subject to traffic, and there are applications in place for Green Blvd. He doesn't see the impacts from
56 this site as being an unmitigable factor but there are cumulative effects that need to be analyzed.
57

1 There were no comments on Chapter 5 alternatives.
2
3 There were no comments on the CEQA considerations.
4
5 Commissioner Mitchell said the appendix should include a soils report and a response from the fire
6 district.
7
8 Commissioner Holt said the appendix should also include geotech and hydrology reports
9
10 Commissioner Chastain said a lot of this depended on screening and wondered if they wanted in there
11 about how to deal with that issue or just say if it doesn't work, it doesn't work.
12
13 Vice Chair Ateljevich said under project review they can discuss if landscaping would or wouldn't work
14 and that landscaping should not be the only option considered.
15
16 Commissioner Holt said they would look at the application specifically and they can say no.
17
18 Commissioner Mitchell asked with regard to mitigation monitoring, is there mitigation with regard to
19 landscaping, whether it is growing or not, and with regard to the runoff.
20
21 Ms. Sinnette said that would be more in the form of a condition.
22
23 Vice Chair Ateljevich said she wanted to add additional hydrological studies with regards to increase of
24 flows to the creeks as part of the response to comments.
25
26 Ms. Sinnette said Vice Chair Ateljevich seemed to be saying she wants additional hydrological studies
27 done in conjunction with the EIR.
28
29 Commissioner Holt said it was the degree of the engineering that they may require in the EIR.
30
31 Ms. Sinnette said they could address the impact and the mitigation could be to do engineering studies. If
32 it is determined that there are impacts on the peak flows then the mitigation would be to do engineering
33 studies and it would be mitigated on site with swales, ponds, etc.
34
35 Vice Chair Ateljevich asked if they were going to continue for preparation of a final document.
36
37 Ms. Sinnette said the Commission could continue this to another meeting were they would be reviewing
38 the final EIR, however since it may be more than 2 months, she would suggest closing this phase, close
39 the public hearing, direct staff and the consultant to prepare the response to comments and the final EIR
40 and when completed they would renotice.
41
42 **Commissioner Mitchell moved and Commissioner Holt seconded to direct staff and the consultant**
43 **to prepare the response to comments and the final EIR for the Soldier Field subdivision, and close**
44 **the public hearing.**

45
46 **AYES: Ateljevich, Chastain, Holt, Lovitt, and Mitchell**
47 **NOES: None**
48 **ABSENT: Harris and Humann**
49 **ABSTAIN: None**

50
51 **7. NEW PUBLIC HEARINGS (NONE)**

52
53 **8. OTHER BUSINESS**

54
55 **B. Adoption of Draft Meeting Dates for 2006**
56 **Recommendation: Approve draft meeting dates for 2006.**
57