

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

2
3 **E. MS506-05 Dino Gerosolimo (Applicant & Owner), MRT Zoning:** Request for a
4 minor subdivision pursuant to Chapter 6-30 of the Lafayette Municipal Code to subdivide
5 one existing parcel totaling 19,671 square feet into three lots, located at 3665 West
6 Road. APN 241-040-004.

7 **Recommendation:** Continue without consideration to May 4, 2006 at the applicant's
8 request.

9 **Project Planner:** Lindy Coburn, Tel: 925-299-3202; lcoburn@lovelafayette.org.

10
11 **Commissioner Lovitt moved and Commissioner Holt seconded to approve the Consent**
12 **Calendar consisting of Items A, B, C, D and E as submitted.**

13
14 **AYES: Ateljevich, Chastain, Holt, and Lovitt**

15 **NOES: None**

16 **ABSENT: Harris, Humann, and Mitchell**

17 **ABSTAIN: None**

18
19 **6. CONTINUED PUBLIC HEARINGS**

20
21 **A. TR6569 Greg Woehrle (Applicant), Soldier Field Partners, LLC (Owner); LR**
22 **Zoning and H-O-D:** Request for a subdivision of 87.9 acres into eight residential lots
23 and one remainder open space lot pursuant to Part 6, Lafayette Municipal Code and
24 California Government Code Sections 66410 et seq., located at 3148 Lucas Drive. APN
25 238-080-019.

26
27 **HDP86-04 Greg Woehrle (Applicant), Soldier Field Partners, LLC (Owner); LR**
28 **Zoning and H-O-D:** Request for 1) a Hillside Development permit for a subdivision of
29 87.9 acres into eight residential lots and one remainder open space lot pursuant to
30 Chapter 6-20, Lafayette Municipal Code (LMC), and 2) an exception to development
31 within a Class I and Class II ridgeline pursuant to Sections 6-2026 and 6-2027,
32 respectively, LMC, located at 3148 Lucas Drive. APN 238-080-019.

33 **Recommendation:** Open public hearing, take testimony, and continue to April 20,
34 2006.

35 **Project Planner:** Christine Sinnette, Tel: 925-299-3241, csinnette@ci.Lafayette.ca.us

36
37 Ms. Sinnette said the project is the subdivision of an 87-acre site into eight residential lots and a
38 remainder parcel. The project site is located on Burton Ridge and is within the Hillside Overlay District.
39 The zoning and General Plan designations for the property allow up to 8 dwelling units. The
40 development area would encompass approximately 28 acres with lot sizes ranging in size from 1.5 acres
41 to 5 acres each. The remaining 59 acres would be left in permanent open space. On March 9, 2006, the
42 Planning Commission certified the final EIR pursuant to the Subdivision Map Act. The City now has 50
43 days to make a determination on the vesting tentative map. The purpose of this meeting is to discuss
44 the mitigation monitoring and reporting program for the project, discuss the appropriateness of the 8
45 proposed building sites, and provide direction to the applicants.

46
47 Ms. Sinnette continued that prior to approving the project, a mitigation monitoring and/or reporting
48 program (MMRP) must be prepared. The purpose of the monitoring program is to ensure that the
49 mitigation measures and project revisions identified in the EIR are implemented. The MMRP lists the
50 potential environmental impacts, adopted mitigation measures, resulting level of significance once the
51 mitigation measures are implemented, who is responsible for monitoring implementation of the mitigation
52 measures, and the time frame for the mitigation measures to be implemented. The Planning Commission
53 should review the proposed MMRP and provide staff with comments or revisions on the monitoring
54 responsibility and time frame.

1 The staff report also contains a series of tables analyzing the project for conformance with hillside
2 regulations. This is the same table that was in the packet for the January meeting, however there have
3 been some minor changes requested by the Planning Commission and based on public testimony. The
4 tables should assist the Commission in discussion on the appropriateness of the 8 building site locations.
5

6 There are 2 mitigation measures that require the applicant to submit additional studies and information
7 prior to tentative map approval. One is to submit design guidelines that are consistent with the Rural
8 Residential Land Use Designation. The applicants submitted revised Lucas Ranch Design Guidelines and
9 these were given to the Planning Commission in February. The Commission should comment on whether
10 or not these guidelines adequately address the performance standards and criteria of this mitigation
11 measure or what else needs to be done so that those guidelines conform to mitigation measures.
12

13 The second mitigation measure requires the submittal of schematic plans for each new home. The
14 applicants presented schematic site plans to the Commission in January, and copies have been included
15 in the staff report. While the plans still need to address the bulk, mass, and general architectural style of
16 the buildings and indicate the proposed grading, the Commission should comment on whether or not the
17 site plans address privacy issues, and if the preliminary landscape plans are adequate.
18

19 Ms. Sinnette concluded her staff report stating that staff recommends that the Planning Commission open
20 the public hearing to consider the tentative map and hillside development applicants, and continue the
21 public hearing to the meeting of April 20, 2006.
22

23 In response to Chair Ateljevich's question, Ms. Sinnette responded that staff would request the
24 Commission comment on the mitigation monitoring and reporting program, the appropriateness of the 8
25 proposed building sites, and if they so choose to provide feedback on the design guidelines and the site
26 plan so that the applicant can supplement the information.
27

28 Chair Ateljevich said that in the new version of the final EIR, she found one error in S-11 where the
29 screening plant requirement was to be modified with the size of the plants to be removed.
30

31 Ms. Sinnette said this was an oversight and it was understood that it would be removed.
32

33 Chair Ateljevich said there would be a landscape maintenance plan requirement for all the final plans.
34 When they reviewed the final EIR, they reviewed it without closely reviewing the draft EIR at the same
35 time. She believes there is one area that states it does not require a mitigation measure, and that is
36 where both the General Plan and the Hillside Ordinance requires houses to be sited away from swales
37 and rock outcroppings. There are two houses that do not meet that requirement. One is on a knoll, and
38 the other is in a swale. The project engineer states that the building site and the access on lot 8 is in a
39 ravine and that site would need walls.
40

41 Ms. Sinnette said if the Commission determines this was a significant impact, and then they would have
42 to redo the EIR. Another option is to address that issue when the Commission discusses the 8 lots as
43 well as conditions of approval. If the Commission decides that house sites on lots 5 and 8 are
44 appropriate, they could condition that they be moved. They would not have to take it to the level of a
45 significant impact but could address this in the conditions of approval.
46

47 David Bowie, attorney for the applicants, asked if there was a time limitation.
48

49 Chair Ateljevich said that the applicant had 10 minutes to make their presentation including all the
50 members on their team.
51

52 Mr. Bowie said regarding the comments made by Chair Ateljevich regarding prominent knolls and such
53 geographic features are addressed in Section 6-2048 regarding offsite visibility. The FEIR has been
54 certified and the Commission is not in a position to re-open that.

1 Chair Ateljevich said it was not addressed in the sections on land use or planning.

2
3 Mr. Bowie said that the FEIR did say that no mitigation was necessary. The mitigation monitoring plan
4 did indicate that every impact identified in the EIR process has been fully mitigated at less than
5 significant levels. The project satisfies the requirements of the General Plan. The map showing lot 8 is
6 within the setback of a Class I ridge and concerns were expressed regarding the oak trees in the vicinity
7 of that site. They have been advised to stay out of the drip lines of these oak trees and that is not a
8 problem. He believes their proposed plan is good land use planning but they are open-minded about this
9 particular lot. Lots 7 and 8 are within the Class I ridgeline setback and both of these could be adjusted
10 so they would be outside the setback line. Lot 4 is within a Class II ridgeline area and thinks this is good
11 land use planning and thinks the Commission can make all the findings for it but that it could be moved
12 out of the ridgeline setback. He has not looked at lot 5. The exceptions regarding ridgeline setbacks
13 could be addressed by changing locations on the lots. Section 6-2023 of the Lafayette Hillside Ordinance
14 which addresses restrictions on Class I and Class II lots and to be in compliance they would have to
15 move these lots around a bit to avoid an exception or finding. They would prefer to leave them where
16 they are because he feels they are a better solution but if it were a matter of technical compliance, they
17 would move them and then be in compliance. The thing they can't move is to comply with the
18 declination requirements if applied, as he believes staff applies it. Looking at the declination
19 requirement, it says that no portion of a structure may be erected adjacent to a Class I or Class II ridge.
20 He understands staff has applied the declination from the top of the ridge to the bottom of the property.
21 Literally applied, it would suggest that no development could take place on this property at all. There is
22 plenty of case law with regards to the definition of adjacent or adjoining, which means something that is
23 within close proximity of. The only rational interpretation is one, which is designed to ensure that if an
24 exemption is granted, that a structure would be built that would not impact the ridgeline they are trying
25 to protect. If they adjust the lots, they may not need any exceptions. He does not think the Commission
26 should have any difficulty in making any of the findings. Better than 60% of the property is set aside for
27 open space, they have an area dedicated to the trail system, they will be doing landscaping, screening,
28 designing the homes to take in the concerns of everyone, and it has characteristics of other similar
29 hillside homes.

30
31 Chair Ateljevich opened the public comment period on this item.

32
33 Linda Chavez, East Bay Regional Park District, said the Park District had submitted a letter that said they
34 were comfortable with the trail alignment. They expressed concerns about lots 7 and 8 and the applicant
35 trying to get exceptions where there are limits. If the exceptions are granted, then why have limits?
36 They want a continuation of the open space, and if the lots are approved, they want the continuity of the
37 open space to be in perpetuity.

38
39 Chair Ateljevich said the management plan is a 10-year plan and a conservation easement would be
40 required so that things stay the way they are. A landscape plan would be applied to the parcels.

41
42 Ms. Sinnette said a homeowners' association would be responsible for the open space with a minimum
43 time on the operation and maintenance agreement of 10 years. It is standard in Lafayette if there is a
44 vegetation requirement of a landscape management agreement it is stated so that when property is
45 transferred, an agreement can be negotiated with the new owners.

46
47 Dave Lanferman, 4 Embarcadero Center, SF, is an attorney representing the owners of 1 Lucas Court.
48 He said with regard to geologic and stability issues, they have concerns with the public information
49 aspect of this survey. If the geologic information is not made public prior to the final map and grading
50 permit, the public will not have an opportunity to comment on it. He requests adequate opportunity for
51 community members to become familiar with the geologic report. Regarding staff's comment that there
52 have been no comments since January 19, 2006, his firm submitted a letter on February 28, 2006
53 regarding the EIR and tentative map issues. He has reservations that the final EIR is not a good basis for
54 approval of the project. He would appreciate receiving information in advance of tentative map approval.

1 Cliff Tong, 9 Dianne Court, represents burtonvalley.com, and said when the EIR was certified on March 9,
2 2006, he brought up when they would get to the point of evaluating specific sites because of
3 environmental impacts. He has concerns as he sees few minus signs in the matrix, and he thinks there
4 should be some. He also wants to know when they will evaluate alternatives. Regarding the parcel
5 attributed to the cell tower that is being called a non-buildable lot, it is not being counted towards the
6 density of the lot, and wondered if the City attorney could answer why the cell tower wouldn't count?

7
8 Robin Picard, Lafayette Valley Estates, said he has a view of the neighboring houses and these new
9 houses will have a view of his neighbors. He likes looking up on the hills at the ridge space. These
10 houses will spoil the ridgeline and set a precedent. A common sense approach would be not to build on
11 this ridge.

12
13 Mr. Bowie said this is not a pristine wilderness ridge, and this development will not be destroying any
14 wilderness nor would it be building on a ridgeline. As a condition of the subdivision, the East Bay Regional
15 Park District insists upon being given, not paying any compensation for, a trail system in a location where
16 they wish and then because of that they do not want to look at the development that is giving them the
17 trail system. He doesn't hear any amount of fairness coming from the Park District. Regarding requests
18 for more information, he feels that they never needed an EIR in the first place but they paid \$175,000 to
19 have this accomplished, which contained a great amount of information. What they have here is the
20 need to make final decisions regarding sites and density and then it would be the more appropriate time
21 to do more studies in terms of specific issues. The public will have ample opportunity to provide input.
22 They still have enough land to meet the density plan requirements and they are still entitled to 8 lots,
23 which is all they are asking for, which will have no significant impacts on the environments based on the
24 final EIR.

25
26 Chair Ateljevich closed the public comment period on this item.

27
28 Chair Ateljevich asked if there were comments on the monitoring plan.

29
30 Commissioner Lovitt said the applicant indicated a willingness to move some sites around and wondered
31 if they had enough in front of them to decide that.

32
33 Commissioner Chastain said he felt they could discuss lots and they should discuss peer review of the
34 preliminary geologic reports. They are assessing, in a general way, the suitability of the sites.

35
36 Chair Ateljevich said that staff told her they were having a problem getting a peer review done. Until
37 they have the economic report, she feels it would not be fruitful to spend time reviewing the sites.

38
39 Commissioner Chastain said they would not review the sites but the preliminary proposition.

40
41 Commissioner Holt wondered if some of the sites might not be geologically sound.

42
43 Commissioner Chastain said there are some problems with some of the sites and there are opinions that
44 are not as optimistic as they should be. There are geological issues and design guidelines need to be
45 seen in relation to the proposed building sites.

46
47 Chair Ateljevich said they could go through on a lot-by-lot basis and pick-up concerns that people have.
48 She asked about a map that was in the last version in the final EIR.

49
50 Ms. Sinnette said that all the maps the Commission received since February show the new site plan. The
51 Commission has full size maps dated February 1st, showing what happened since the original map
52 submittal in 2004.

53
54 Chair Ateljevich said she is asking for maps showing refinements required by the mitigations.

1 Ms. Sinnette said these mitigations are not required prior to tentative map approval.

2
3 Chair Ateljevich asked how much grading would be required. They need a general area for lot 1, how
4 much grading would be required for lot 2, slide repair shown, and does this get into privacy concerns.
5 They need more details on screening landscaping and 95% compaction, as well as what species of trees
6 could grow in that area. The house on lot 3 would probably need to be shifted.

7
8 Commissioner Holt said the geotech provides the study of this and wondered if it were possible for him to
9 work with the landscape requirements.

10
11 Chair Ateljevich said he would probably make his own requirements. They could ask him to review the
12 landscape plans.

13
14 Commissioner Holt asked Ms. Sinnette to note that the geotech should review the landscape screening
15 requirements.

16
17 Chair Ateljevich looked to sites 4, 5, and 7 on page 12 of staff's chart.

18
19 Commissioner Holt looked at site vs. visibility vs. grading and this seemed to be the best sites available.

20
21 Chair Ateljevich said there was a problem with lot 5, as it was on the knoll, and has an impact on houses
22 below it.

23
24 Commissioner Lovitt said it was also in a Class II setback.

25
26 Chair Ateljevich said she would consider moving lot 5. Lot 6 requires a lot of grading and soil repair.
27 There is not much problem with lot 7. She does not like lot 8 due to the steepness as it is in the setback
28 and not part of the cluster.

29
30 Commissioner Holt agreed but because it is in the swale does not persuade him against it.

31
32 Commissioner Chastain said regarding lot 8, they would all like a clearer picture of what the remedy is.
33 This site could be built on depending on how much mitigation is needed. It is not clustered and
34 interrupts an otherwise open hillside. Lots 2 and 5 are problematic regarding privacy. He wants to see
35 some kind of design guidelines regarding the program distribution of the lots. Looking at these
36 footprints, it is hard to answer issues of privacy and control uses on these lots. Grading is a clear
37 strategy for some of these problematic lots e.g. lot 6 where a lot of work would be needed. He could
38 speculate but doesn't know.

39
40 Chair Ateljevich said they should comment on the footprints but does not see how they could.

41
42 Ms. Sinnette noted corrections to the lots: Lot 3 the structures encroach a little on the setbacks, and on
43 lot 2 they do not encroach on the setbacks at all.

44
45 Chair Ateljevich said they should discuss the mitigation plan at the next meeting. She feels they have
46 gone as far as they can go on the sites. They need more grading information with the areas impacted.

47
48 Commissioner Holt asked if the applicant could provide this information based on the current footprint
49 and give a rough estimate?

50
51 Ms. Sinnette answered on just the grading, yes.

52
53 Chair Ateljevich said she would like the applicant to take a stab at relocating lot 8.

1 Commissioner Chastain said he would support that. They need more complete design guidelines in part
2 in relation to the constraints. They also need a general agreement on the houses, which should be
3 similar in style.
4

5 Ms. Sinnette said on the plan for lot 5 shows it is a one-story element and is beginning to address some
6 concerns, as it shows no windows at the southwest elevation.
7

8 Chair Ateljevich said there was an undue impact on size and placement.
9

10 Commissioner Chastain said he had a conversation with the architect and described to the architect that
11 guidelines should include urban uses, use of homes, and these are not that. He does not want to infer a
12 need to formalize floor plans or guidelines. He wants information to have confidence in the degree of
13 grading and geologic repairs.
14

15 Commissioner Lovitt said a number of lots are easier than others and perhaps they should look at those
16 first.
17

18 Chair Ateljevich said they need the economic analysis, which should be made available at the next
19 meeting.
20

21 Mr. Bowie said he understood that the Commission wanted a re-study of lot 8 and possible relocation.
22 Also that Commissioner Chastain wanted more proscribed uses in relation to privacy concerns without
23 annotations of existing schematics and that they should set forth parameters.
24

25 Commissioner Chastain said no, he asked for design guidelines to allow the Commission to look at a
26 better strategy to provide development of houses.
27

28 Commissioner Holt said regarding lots 2 and 5, they are prominent and look down and they need design
29 guidelines that show how to minimize privacy issues. They are looking for heavy grading/orientation of
30 the house/visibility/privacy issues, not to design the house but guidelines per site.
31

32 **Commissioner Holt moved and Commissioner Chastain seconded to continue TR6569 and**
33 **HDP86-04 to the Commission meeting on April 20, 2006.**
34

35 **AYES: Ateljevich, Chastain, Holt, and Lovitt**

36 **NOES: None**

37 **ABSENT: Harris, Humann, and Mitchell**

38 **ABSTAIN: None**
39

40 The Commission took a break at 9:16 PM.
41

42 The Commission resumed its meeting at 9:27 PM.
43

44 **B. HDP38-05 Thomas and Donna Amen (Applicants & Owners), LR-10 Zoning:**

45 Request for a Hillside Development permit pursuant to Section 6-2015 of the Lafayette
46 Municipal Code to establish a building site for a new 5800 sq. ft. +/- single-family
47 residence within the Hillside Overlay District and within a Class II Restricted Ridgeline
48 Setback at 3315 Hillside Terrace. APN 230-030-065.

49 **Recommendation:** Take testimony from the applicant and public, and provide direction
50 to the applicant that Scheme 8 remains the appropriate building site.

51 **Project Planner:** Greg Wolff, Tel: 925-299-3204, gwolff@ci.lafayette.ca.us
52
53