

1 Commissioner Chastain said he agrees with what has been said but wants to be convinced of the need,
2 choice of pole, and to see some effort to deal with the boxes on the ground.

3
4 Commissioner Lovitt said he was not happy with all the issues not being available to the Commission for
5 consideration but that he supports cell phone usage.

6
7 Chair Humann said he agrees with what's been said. He thinks that it is a stretch that approval of cell
8 phone towers prevents underground utilities.

9
10 Vice Chair Ateljevich said she recalled that there had been some discussion regarding a standard color
11 for utility boxes and equipment in Lafayette, and asked staff to look into this.

12
13 **Commissioner Harris moved and Commissioner Mitchell seconded to continue this application to**
14 **the Planning Commission meeting of December 1, 2005 to allow the applicant time to provide the**
15 **convincing data of the need for this project, the location of the pole, and any ideas the applicant**
16 **might have for the cabinets.**

17
18 **AYES: Ateljevich, Chastain, Harris, Humann, Lovitt, and Mitchell**
19 **NOES: None**
20 **ABSENT: Holt**
21 **ABSTAIN: None**

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

28
29 **HDP86-04 Greg Woehrle (Applicant), Soldier Field Partners, LLC (Owner); LR**
30 **Zoning and H-O-D:** Request for 1) Hillside Development Permit for a subdivision of 87.9
31 acres into eight residential lots and one remainder open space lot pursuant to Chapter 6-
32 20, Lafayette Municipal Code (LMC); and 2) An exception to development within a Class I
33 Ridgeline pursuant to Section 6-2026 LMC, located at 3148 Lucas Drive. APN 238-080-
34 019. **Review of Draft Environmental Impact Report.**

35 **Recommendation:** Open public hearing, take testimony on the Solider Field Subdivision
36 Draft Environmental Impact Report, and continue the public hearing to the meeting of
37 November 17, 2005.

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

39
40 Chair Humann recused himself from this item and left the meeting at 9:35 PM.

41
42 The Commission took a break at 9:35 PM.

43
44 The Commission resumed their meeting at 9:46 PM.

45
46 Ms. Sinnette said the purpose of this hearing was to introduce the proposed project, outline the process,
47 and solicit input on the draft Environmental Impact Report (EIR). There is a minimum 45-day public
48 review period. In 2004 the applicant submitted subdivision and hillside development permit applications
49 to subdivide an 87.9-acre site into eight residential lots and a remainder parcel. The site is located at the
50 end of Lucas Drive along the boundary between the cities of Lafayette and Walnut Creek. The zoning
51 designation allows a maximum of 8 units. The property is within the Hillside Overlay District. In February
52 2005, the Planning Commission determined that an EIR was required. RBF Consulting was hired to
53 prepare the EIR. Planning and Engineering Division staff, the City Engineer, and the City Attorney have
54 reviewed the draft EIR. The Circulation Commission will be reviewing the transportation portion of the
55 draft EIR at their November 7, 2005 meeting.

1 The City must prepare a final EIR based on the comments received on the draft. Although CEQA does
2 not require a hearing on the final EIR, it is expected that one hearing will be held before the Planning
3 Commission before certification. Certification of the EIR does not control the City's ultimate decision on
4 the proposed project. This is not a formal evidentiary hearing but an opportunity for comment. CEQA
5 does not require that conclusive or exhaustive tests be performed.

6
7 The process tonight is that the Planning Commission will discuss any issues they have with the draft EIR,
8 take testimony, and continue the hearing to the Planning Commission meeting of November 17, 2005.

9
10 Vice Chair Ateljevich asked who retained ownership and maintenance of the open space.

11
12 Ms. Sinnette answered that would be vested in a homeowners association, which is the way the project is
13 currently proposed. An alternative could also be that the lots retain their own open space. Either way,
14 the open space areas would be subject to a conservation easement.

15
16 Vice Chair Ateljevich asked if staff has looked at the slides that were repaired a couple of years ago.

17
18 Ms. Sinnette said that engineering staff and the building division have been involved in that process.

19
20 Vice Chair Ateljevich asked if the engineering staff has come to any conclusions as to why the slides
21 have recurred.

22
23 Ms. Sinnette said that the applicant probably had the information regarding that issue.

24
25 Vice Chair Ateljevich said she was concerned about the number of landslides on that property and the
26 City's liability with regard to them.

27
28 Mr. Smith said that the City would have design immunity. The City has an obligation to review
29 applications and construction but once the City fulfills that obligation and signs off on the project, it would
30 have immunity.

31
32 Commissioner Lovitt asked about the timeline of the process.

33
34 Ms. Sinnette said that the 45-day period started on October 11, 2005. CEQA allows a minimum of 30-
35 days and a maximum of 60-days with 45-days days being the standard period. The deadline of the 45-
36 day period is November 25, 2005. There has been public noticing that the hearing on the draft EIR will be
37 continued to the Planning Commission's November 17, 2005 meeting. The timeline to certify the EIR is 1
38 year with a possible 90-day extension that could be granted by the applicant. December 29, 2005 is the
39 deadline for the 1-year timeline.

40
41 Kristie Wheeler, RBF Consulting, said her firm prepared the draft EIR. She gave an overview of the
42 project, which is an 87.9-acre site with 8 lots of 1.5 to 5 acres and the remainder lot of 59.62 acres for
43 open space and telecommunication facilities. The purpose of CEQA is to inform decision makers and the
44 public of potential environmental effects of a project. Land use and aesthetics were two keys issues of
45 the draft EIR. The Land Use section of the EIR looked at consistency with the City's General Plan,
46 Zoning Ordinance, and the Hillside Ordinance, and their determination was that it is consistent with these
47 with the implementation of mitigation measures in some cases. While the project may not conform to all
48 the zoning and Hillside Development regulations, these allow for exceptions and variances providing the
49 findings are made. Land use impacts were determined to be less than significant. The aesthetics section
50 evaluated visual impacts, which determined that although the site is visual from public locations, the
51 development area itself, in most cases, is not. With mitigation, the visual impacts would be less than
52 significant. In determining the impacts, they used the thresholds of significance in the CEQA guidelines
53 and referenced in the EIR. They analyzed 57 impacts and based on the evaluation, it was determined
54 there would be no significant unavoidable impacts. Twenty of the impacts would be less than significant
55 after mitigation, and 17 would have no impact.

1 There were three alternatives considered. These were: 1) No Project, No Development resulting in no
2 environmental impacts to the site but would not preclude future development of the property; 2)
3 Neighborhood Extension is similar to the proposed project in that it includes 8 lots, however they would
4 be smaller lots and more clustered than the proposed projects. The aesthetic impacts would be less with
5 this alternative and development would occur at lower elevations on the site. However, the geology
6 impacts would be greater because landslides and unstable soil on the site would affect more home sites.
7 3) Revised Site Plan alternative is similar to the proposed project however two of the lots would be
8 relocated closer to the ridgeline so that these homes would be less visible to the adjoining neighborhood.
9 The aesthetic impacts would be greater because the project would be more visible from off-site locations.
10 CEQA requires a determination of an environmentally superior alternative. Aside from the No Project
11 alternative, the Neighborhood Extension alternative is the environmentally superior alternative.
12

13 Robert Stahle, RBF Consulting, described the methodology used to create the visual simulations. Photos
14 were taken of the site from different locations. They then did CAD modeling of the proposed site and then
15 incorporated the site photos with the CAD model. Mr. Stahle showed a slide of the green area. RBF and
16 City staff conducted a field trip and identified locations from the City's viewing Evaluation Map to model.
17 The next slide showed the GPS collection data with field notes and compass readings from where the
18 camera was. The next slide discussed basic principals of photography, which were to mimic what the
19 human eye sees. The next slide showed the importing of field data to CAD. The next slide showed the
20 CAD model view from GPS points. The next slide showed the components of CAD data with
21 photography. The last slide showed an example of an image from the draft EIR.
22

23 Commissioner Lovitt asked if an economic viability report for the project was available, and if it was
24 accessible by the Planning Commission.
25

26 Ms. Sinnette replied that they did have this report and it was accessible to the Planning Commission.
27 This report will be peer reviewed and they are in the process of hiring someone to perform this review.
28

29 Commissioner Lovitt asked if there was an ordinance that would determine what goes into the economic
30 viability report.
31

32 Ms. Sinnette replied that there was a section in Chapter 6-20 of the Hillside Regulations, which is very
33 specific as to what must be included in the report.
34

35 Vice Chair Ateljevich asked about the personnel listed in the draft EIR and wondered what the expertise
36 was of some of the people who did the work.
37

38 Ms. Wheeler said the planners are generalists unless there is a specialty that is listed.
39

40 Vice Chair Ateljevich asked if a geologist was on the team.
41

42 Ms. Wheeler replied that they did not have one on the team.
43

44 Vice Chair Ateljevich said to confirm that the geology report was then written by a geotech.
45

46 Ms. Wheeler confirmed that was correct.
47

48 Vice Chair Ateljevich said therefore there was no review by an engineering geologist which the General
49 Plan requires when there have been landslides on a site. She feels a peer review may be adequate if the
50 City has an engineering geologist also review the report. They need to be certain of stability, that
51 landslides will not recur, and which sites will be repaired.
52

53 Ms. Wheeler said that as it relates to the proposed project, landslides that are not within the proposed
54 project are not proposed to be repaired.
55

56 Vice Chair Ateljevich said there are potential impacts on the homes below the slides, and therefore some
57 data was needed. She asked whether the homes were staked in accordance with the massing and

1 conceptual plans. She asked if these plans were consistent with other guidelines. The Hillside
2 Ordinance requires that when the home site area is 30% slope and less than 15000 sq. ft., that massing
3 and design studies are required. They need to be sure that these are within the guidelines and conditions
4 result in what they are seeing.

5
6 Vice Chair Ateljevich said in the exhibits where the alternative plans are shown, the 100-ft. band
7 described as a setback requires Planning Commission approval, but it is not a setback. It is a band within
8 which the visibility requirements are restricted within the setback and Planning Commission approval is
9 required. House #3 does not appear to be within a Class I ridgeline setback but is in that band. She
10 questioned if the guidelines are consistent with the ones they are proposing to adopt.

11
12 Vice Chair Ateljevich said there is a mitigation on Page 310-7 where it requires 100-ft. of irrigated
13 landscape in all directions and she wondered where that information came from. The Contra Costa Fire
14 Department does not require that and she feels this is ominous in terms of landscape policy.

15
16 Allan Moore, a land use attorney representing the applicant, said the project is consistent with the
17 General Plan and the Zoning Ordinance. The Planning Commission directed what was to be studied and
18 the EIR was developed after analysis of this data. After review of the data, the draft EIR states on Page
19 6-1 that "The proposed project if implemented with mitigation measures as proposed, will not result in any
20 significant environmental impacts". The draft EIR makes a direct linear connection between all the data
21 and the General Plan, and zoning ordinance. They proposed low-density residential zoning, 1 unit per 10
22 acres; a clustered project, which the draft EIR concludes, has no impacts on the environment. The draft
23 EIR reflects an independent analysis of the City's consultant.

24
25 Tim Ward, Ward Young Architects, said that his involvement came late in the process when the project
26 was scaled back to 8 units. In laying out the units, the first element they judged in siting was visibility.
27 Some of the homes were not visible from some areas but went into the ridgeline area and were all in the
28 15-degree declination. In the Area 2 sites, which are up higher, these are more sensitive sites, which
29 require flat roofs to deal with visibility. The homes in Area 1 would be a more conventional home. The
30 staking done was according to the guidelines. They would be asking for some kind of exceptions due to
31 the 15-degree declination, which would give them some flexibility. The EIR shows some locations need
32 to fine-tuned. Only three homes could be seen in the visual simulations, and these were homes 1, 3, and
33 4.

34
35 Vice Chair Ateljevich said that to access Lot 5 you would have to cross drainage and wondered how he
36 would handle that.

37
38 Mr. Ward answered they would probably have to do some sort of small bridging and there is some similar
39 difficulty with another lot.

40
41 Vice Chair Ateljevich asked about the repairs made and if they would threaten the trees.

42
43 Mr. Ward said this was not within his area of expertise.

44
45 Commissioner Mitchell said the draft EIR chose the environmental superior alternate as the neighborhood
46 extension alternative and asked him to explain that further.

47
48 Mr. Ward said the project as proposed would look more like ranches and would be a different kind of
49 project than the homes on Lucas Drive.

50
51 Greg Woehrle, applicant, said regarding the landslides that they have retained Cal Engineering, a soils
52 engineer from the City's recommended choices, who will be present at the next hearing to answer specific
53 questions. It is his understanding the home sites will be repaired according to the soils engineer
54 recommendations. Hollenbeck and Associates, who were sued by them, repaired the slides the first time.
55 The case was settled in mediation.

56
57 Vice Chair Ateljevich opened the public comment period on this item.

1
2 Judy Nelson, 4015 Tilden Lane, representing the Parks, Trails and Recreation Subcommittee, said they
3 have been very generous with some of the trails they have provided but they have no access from the
4 southern area. They have a Rohrer Drive trail and it is important to continue this trail. She will provide a
5 map of this trail to the consultant.

6
7 Bryan Goldwyn, 2750 Rohrer Drive, said he was not convinced of the mitigation attempts. From his
8 perspective there are privacy concerns and landslide issues that he does not feel have been adequately
9 addressed.

10
11 David George, 2730 Oak Canyon Road, said this was a complex document and asked how much time
12 they had to review the report.

13
14 Vice Chair Ateljevich said the deadline is November 25th and everything that comes in by that date will be
15 responded to. The public has 45-days and the time frame is legally set.

16
17 Mr. George said that he takes exception to the lawyer's comment that the EIR states this draft EIR is
18 consistent with the City of Lafayette's General Plan and zoning ordinance. He said it is not consistent at
19 all. He said the lawyer said if you toss out all the hillside ordinances and zoning requirements, which the
20 Planning Commission members and City Council members and citizens worked hard to put in place, then
21 if you planted some vegetation, you can toss out the General Plan requirement for substantial vegetation.
22 It is not hunky-dory at all and infuriates him. They are asking for huge exceptions to the hillside
23 ordinance, the Class II ridge especially, and feels the homes would be highly visible along the ridge. He
24 wanted to know if they were going to put up with the geologic instability as he feels this is a real issue.
25 He wanted to know if they were going to put the safety of the neighborhood at risk.

26
27 Virginia Glavinovich, 3164 Lucas Drive, said she is concerned with her home and the homes on Lucas
28 Drive. She understands that the EIR did not employ a geotechnical engineer.

29
30 Vice Chair Ateljevich said they did employ a geotechnical engineer however the ordinance requires an
31 engineering geologist.

32
33 Ms. Glavinovich said that given the visibility, the people who live directly below would be directly affected.
34 She is concerned with instability. She said that repairs have been done on her house due to previous
35 landslides. She said her home is not sliding but settling and she has hired a geotechnical engineer to
36 make the repairs. She said her home is in a flood zone. If they decide to go with the neighborhood
37 extension, she would like to see every oak tree that would be affected tagged with a red band around it
38 and story poles put up. If the houses are proportionate to the model they seem to be 3-story homes.

39
40 Marie Blits, 3166 Lucas Drive, said she was also concerned with soil instability and flooding issues. She
41 has lived there for over 20 years. The land above them has shifted on a regular basis and they get a
42 huge amount of water barreling down on them in the winter. Depending on what kind of brush clearance
43 has been occurring it throws the drainage completely off. The neighbor below them has put up piers to
44 stabilize their property.

45
46 Ms. Blits said she is also representing burtonvalley.com. She has listened to the presentation and they
47 will come back with a detailed response. In order to build within the Class I ridge 400-ft. line, the
48 developer needs to make certain findings including the finding that the application would have the effect
49 of depriving the property of all economic viable use. She doesn't see in the document any analysis from
50 how they go from 0 to 8 houses. What is the evidence that without those houses there would not be any
51 economic viable use?

52
53 Ms. Blits said that in 6-2071(g), the section on visibility, the houses need to be sited to minimize the loss
54 of privacy. It says in the document that they acknowledge they are supposed to respect people's privacy
55 but in reality it is hard to see how they will do that at some of the locations. How will they site the houses
56 to minimize the loss of privacy? She feels these homes will loom over everyone's homes. She feels this
57 is a backwards analysis as they are first drawing the lot lines and then within the lot lines they will site the

1 houses for privacy. She said these were not 8 separate lots but 87 acres and within the 87 acres they are
2 supposed to site the homes for privacy. She is concerned about the Lot 8 homes behind her house and
3 the story poles seem as though the homes are huge. In the neighborhood extension alternative, there
4 are 2 homes that would be a problem because they are very steep. She can see the poles for lots 5 and
5 6.

6
7 Tina Tankka, 3168 Lucas Drive, expressed the same concerns regarding landslides and privacy. She
8 understood that at first the developer did not want to cluster his homes because of privacy concerns for
9 each other. Their homes are modest and these homes seem quite large. Home number 8 sits in the
10 valley where the water comes running down.

11
12 Allan Moore said he considered this evening a study session. He has written down the neighbor's
13 concerns and they want to work with the neighbors to respond to their privacy concerns and lot locations.
14 The geologist will be present at the next hearing. They are conserving a vast majority of the project for
15 open space for perpetuity.

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

17
18 Vice Chair Ateljevich said she wanted the applicant to provide a map of the regional parks trails
19 connected on the southern boundary that is shown in the Burton Valley Ridge guidelines and required by
20 the East Bay Regional Parks District. The trails look as wide as a public road. They need to know the
21 long-term maintenance of the open space area and she assumes they will get that extent from the
22 geologist. The need to know the visibility impacts from the freeway and Deer Hill Road, maybe there
23 aren't any but this needs to be looked into. They need to know what are the possible impacts from the
24 peak flows on Grizzly Creek and Las Trampas Creek would be. It is a General Plan policy to analyze off-
25 site impacts as well as on-site impacts of drainage. They need a copy of the response from the Contra
26 Costa Fire District to the draft EIR. The City ordinance expresses a preference for the roads to be as
27 narrow as possible. She did not think they would want parking along the road. The Fire Department
28 usually requires a 30-ft. space and there are other ways to cut down on the fire hazard by removing
29 vegetation but they don't need to have irrigated landscape around every house. She doesn't want to see
30 mitigations in the EIR that deliberately contradict the City's ordinance. There is a place in the EIR that
31 allows for non-native vegetation but the ordinance requires them to stick to local native plants.

32
33 Commissioner Lovitt said when he read the EIR, especially with regard to minimizing loss of privacy; the
34 way it read to him was that homes were sited internally to minimize loss of privacy internal to the project.
35 His concern is privacy to the living areas of the existing homes.

36
37 Commissioner Mitchell said that visibility would be affected by the size of the structures. One of the
38 speakers commented with regards to the model and he wondered what size structure the model was
39 referring to. He was glad that the trail issue was brought up. The Master Trail has plans to connect to
40 other open spaces to the south and feels this is an important ingredient. Regarding the Class I ridgelines,
41 it appears that lot 7 was within a Class I ridgelines and in the neighborhood extension version it looks like
42 lots 5 and 6 are within the Class I ridgeline. He would like maps show all the ridgelines. Some maps in
43 the EIR show Class I ridgeline areas and some do not, so he would like some clarification.

44
45 Vice Chair Ateljevich asked that staff provide accurate information to lay over the maps.

46
47 **8. OTHER BUSINESS** (NONE)

48
49 **9. PLANNING MANAGER'S REPORT** (NONE)

50
51 **10. ADJOURNMENT**

52
53 **Vice Chair Ateljevich adjourned the meeting at 11:22 PM to the regular Planning Commission**
54 **meeting of November 17, 2005.**

55
56
57 Respectfully submitted,