

DATE ISSUED: November 23, 2005 **REPORT NO.** PC-05-358

ATTENTION: Planning Commission, Agenda of December 1, 2005

SUBJECT: **FOX CANYON NEIGHBORHOOD PARK**
PROJECT NO. 70422. PROCESS 3

REFERENCE: Hearing Officer Report No. HO 05-176, October 12, 2005 (Attachment 13)

**OWNER/
APPLICANT:** Larry Zajonc, Linda Smith-Zajonc and Kanhkong Souryamath
City of San Diego, Park and Recreation Department (Attachment 10)

SUMMARY

Issue: Should the Planning Commission approve an appeal of the Hearing Officer's decision to approve a Site Development Permit to develop a 2.7-acre site with a 1.9-acre passive park plus improvements to the north and south side of Auburn Creek adjacent to the undeveloped portion of Landis Street, development and realignment of an existing paper street (Ontario-Winona Avenue), and improvements to the east side of Auburn Creek adjacent to the existing undeveloped portion of Ontario-Winona Avenue in the Mid-City Communities Plan area (Attachment 5)?

Staff Recommendations:

1. **CERTIFY** Mitigated Negative Declaration (MND) No. 70422 and **ADOPT** the Mitigation, Monitoring and Reporting Program (MMRP), and
2. **DENY** the appeal and **APPROVE** Site Development Permit No. 267281.

Hearing Officer Recommendation - On October 12, 2005, the Hearing Officer approved a Site Development Permit to develop a 1.9-acre passive park including improvements to the north and

south side of Auburn Creek adjacent to the undeveloped portion of Landis Street, development and realignment of an existing paper street (Ontario-Winona Avenue), plus improvements to the east side of Auburn Creek adjacent to the existing undeveloped portion of Ontario Avenue in the Mid-City Communities Plan area.

Community Planning Group Recommendation - The City Heights Area Planning Committee on July 6, 2005, voted 12:0:1 to recommend approval of the proposed Site Development Permit and to recommend that Ontario Avenue and the unpaved portion of Winona Avenue not be paved (Attachment 11).

Environmental Review - Mitigated Negative Declaration, LDR No. 70422 has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) Guidelines. A Mitigation, Monitoring and Reporting Program has been prepared and will be implemented which will reduce, to a level of insignificance, any potential impacts identified in the environmental review process.

Fiscal Impact Statement - None with this action. All costs associated with the processing of this project, including the appeal, are paid from a deposit account maintained by the applicant.

Code Enforcement Impact - There are no code violations on the site.

Housing Impact Statement - According to the Mid-City Communities 1.9-acres of the total project site is designated for residential, emphasizing multi-family residential development at 26 to 30 dwelling units per acre. The remaining portion of the site consists of unimproved public right-of-way. Although, the project site is currently vacant and would not result in the loss of any existing housing units, the development of a 1.9-acre neighborhood park would result in the loss of potentially 49 to 57 dwelling units based on the existing land use designation.

BACKGROUND

The subject site is within an area bounded by Landis Street and Sterling Court on the north and south and Altadena Avenue and Winona Avenue on the east and west (Attachments 1 and 2). The site is zoned RM 2-5 and is designated in the Mid-City Communities Plan for multi-family residential development (Attachment 3). The site consists of a small undeveloped canyon, a north facing slope, and a relatively flat disturbed area (Attachment 4). The site is surrounded by residential development. With the exception of a few scattered patches of exotic plant species, this area is devoid of vegetation.

The project site is not within and/or adjacent to the Multi-Habitat Planning Area (MHPA). However, a portion of Auburn Creek is the site of a City habitat restoration project. This habitat restoration project serves as mitigation for impacts resulting from a sewer main emergency repair completed in July, 2001. A small part of the restoration area occurs within the northeastern

boundary of the project site. The habitat restoration area would not be impacted as a result of implementing the proposed park project.

The proposal is subject to the Environmentally Sensitive Lands (ESL) regulations per San Diego Municipal Code (SDMC) Section 143.0110(a)(1) because the site contains "sensitive biological resources" as defined per the SDMC, Section 113.0102), therefore, a Site Development Permit (Process 3) is required.

Hearing Officer Decision

On October 12, 2005, the Hearing Officer approved a Site Development Permit to develop a 1.9-acre passive park including the Ontario-Winona Avenue connection. At the hearing, the Hearing Officer expressed his strong concern that staff had received two different recommendations from the community; the Fox Canyon group that wanted the park and the road to go through, and the City Heights Area Committee that also want the park, but do not want the road (Attachment 22). He noted that while the Ontario-Winona Avenue connection could possibly be used for park purposes or even emergency access, given the configuration of the lot, the right-of-way usability for park purposes would be limited given the width of it. He asked staff if the right-of-way for the Ontario-Winona Avenue connection had been set aside as part of a subdivision. If it was, he stated that it would confirm the fact that the connection was envisioned. At the time of the hearing, staff was unable to answer the question. Subsequent to the hearing, it has been confirmed that the right-of-way was established as early as 1925.

DISCUSSION

Appeal

The appellant, Theresa Quiroz, has appealed the Hearing Officer's decision of October 12, 2005, for the following reasons (Attachment 9).

1. The Hearing Officer Report is incomplete and has factual errors.
2. Park and Recreation staff made factual errors when responding to the Hearing Officer's questions.
3. The Community Planner withheld information from the Hearing Officer.
4. The approval is in conflict with the grant application filed under the State Urban Park Act.
5. The project is in conflict with the City requirement regarding the implementation of the Euclid Redevelopment Area Plan (RAP) recommendations.
6. The findings for the road portion of the project are not supported.

In an effort to better understand the reasons cited in the appeal, staff contacted Theresa Quiroz by e-mail on October 31, 2005, requesting further elaboration. At the time this report was prepared staff

had not received a response. Lacking a better understanding of the specifics of the appeal, staff has attempted to respond to the appeal as follows:

Staff Responses to the Appeal

1. The Hearing Officer Report is incomplete and has factual errors.

During the Hearing Officer’s public hearing, staff noted that the Hearing Officer’s report contained an error. On page 4 of the report it stated that the Ontario-Winona Avenue connection would be constructed to be 28-feet including a 5-foot wide sidewalk. This was incorrect. The road would be 24-feet wide curb-to-curb with a 5-foot wide sidewalk on the east side and a 5-foot wide meandering trail on the west side. This error was corrected at the Hearing Officer hearing.

2. Park and Recreation staff made factual errors when responding to the Hearing Officer’s questions.

Based upon the public testimony at the October 12, 2005; hearing staff is assuming that the following are the alleged errors referred to.

Grant application - During the public hearing on October 12, 2005, there were questions pertaining to the timing of the grant application. The grant preparation began in late 2003, by Park and Recreation staff. The grant application was submitted to the State on January 15, 2004; however, the cover on the application incorrectly listed 2003, when it should have been dated 2004 (Attachment 6).

Utilities - At the hearing, staff responded to the Hearing Officer that a sewer line is located at the centerline of the existing Ontario Avenue right-of-way which is currently an unimproved paper street. This response was correct. For further clarification, the project proposes to develop and realign the existing Ontario Avenue, to accommodate the 20-foot creek buffer, so that the sewer line would then fall to the west of the centerline on Ontario Avenue.

Site Development Permit Acreage - The following is a summary of the site acreage.

Park (gross acreage)	1.9 acres
Road, curb, gutter, sidewalk, parking	0.4 acres
<u>Creek enhancements/buffer adjacent to Ontario & Landis</u>	<u>0.4 acres</u>
Total Project Area	2.7 acres

How much area is being lost due to the road going through – For clarification, the project started and remains with the intent of purchasing a 1.9-acre site to develop a neighborhood park. The grant application referenced this 1.9-acre parcel. The graphics used in the grant application was a schematic and incorporated the 1.9-acre parcel, plus the creek enhancements, which were an additional 0.4-acre and landscaping where the paper street (Ontario-Winona Avenue) is located for an additional 0.4-acre, for a total of 2.7-acres (Attachment 6). Of the 2.7-acre site, 0.4-acre is lost due to the proposed

Ontario-Winona Avenue through connection. Additionally, the road does not bisect the park. The proposed 1.9-acre park parcel is to the east of the Ontario-Winona Avenue connection (Attachment 5).

Was the road (Ontario-Winona Avenue connection) part of original grant package – No. The appellant in a letter to the Hearing Officer dated October 4, 2005, stated that the terms of the grant do not permit the road; if the road were to be included the grant would be lost (Attachment 15, page 14). This is not true. The State is aware that the project has changed from the original grant submittal to include development of the paper street (Ontario-Winona Avenue) going through the site adjacent to the park. The appellant, in the same letter, further stated that the grant said the paper street must be vacated. This is incorrect, no where in the grant is this required. The need for a community plan amendment to rezone the site for park use is also stated as condition of the grant. In fact, the grant did not discuss a community plan amendment or a rezone, nor is either required to develop the site with the neighborhood park. However, the Initial Study Checklist for the grant on page 15, item g, states....*paper streets within the project that are included in the Community Plan as circulation elements must be vacated in order to create the park.*" (Attachment 16). Local streets are not identified on the circulation elements of community plans. Ontario Avenue is a local street; therefore, a community plan amendment is not required for its connection.

3. The Community Planner withheld information from the Hearing Officer.

The Community Planner was asked only one direct question by the Hearing Officer as to whether or not the connection between Auburn Drive and Winona Avenue was addressed in any way in the community plan. The Community Planner's response was, "*No. That connection is not listed in the circulation element of the Mid-City Communities Plan.*" The Ontario-Winona Avenue road connection is unclassified local street and is therefore not identified in the Circulation Element of the Community Plan.

Staff believes that the appellant may have wanted the Community Planner to clarify the boundaries of the proposed project and to state that the proposed project is not located in the Fox Canyon neighborhood, but in the Chollas Creek neighborhood as depicted in Figure 5, entitled Mid-City Neighborhoods of the Neighborhoods Element of the Community Plan (Attachment 17). However, the background text in the Community Plan (Attachment 18) clearly states that, "*While the neighborhood boundaries are not hard and fast, a major determinant of the boundaries and neighborhoods illustrated in this plan was the existence of active community associations.*" According to the statement, the influence of a specific neighborhood in a community is not confined or restricted by specific boundaries.

The question of whether the project is in Chollas Creek or Fox Canyon has been argued in the community. Regardless, the project since its inception has been known by the City as the "Fox Canyon Neighborhood Park". This name appeared on the Initial Study; Notice of Application; Posted Notice of Application; Mitigated Negative Declaration; the notice of the Hearing Officer public hearing, as well as, the Community Planning Committee Distribution Form (Attachment 14).

At the public hearing on October 12, 2005, it was noted during public testimony that the City Heights Area Planning Committee chose to identify the project not as Fox Canyon, but as the “Chollas Creek Neighborhood Park.” This was how the project appeared on their July 6, 2005 agenda (Attachment 19). At that meeting the group voted 12:0:1 to recommend approval of the proposed Site Development Permit without the Ontario-Winona Avenue connection. It was also stated during public testimony that residents interested in the Fox Canyon Neighborhood Park project did not attend the meeting because they were not aware that it was being considered because of the name change. The member of the planning group representing the Fox Canyon neighborhood abstained from voting because he did not want to vote against the park and he wanted it recognized that he did not support deletion of the Ontario-Winona Avenue connection.

Staff believes that the appellant also wanted the Community Planner to discuss the recommendation in the Public Facilities Element of the Community Plan that states, *"Evaluate all vacant and publicly owned land -- including streets and unimproved rights-of-way for potential use as park or recreation facilities."* The appellant opposes the improvement of the paper street and believes that the proposed project is inconsistent with this plan recommendation since the unimproved paper street will be improved as opposed to being included into the proposed park. Given that the Mid-City area is deficient in park land, the plan recommendation enables the City, public, or other entity to consider the inclusion of unimproved streets as potential park area, however it does not require that all unimproved streets be converted to park land.

4. The approval is in conflict with the grant application filed under the State Urban Parks Act.

Grant Application - The plan submitted to the State was a preliminary schematic for illustrative purposes (Attachment 6). No community outreach was conducted at that time. The goal was to obtain the funding showing typical park amenities and perform community outreach later, to program the park amenities. Additionally, because of grant application timeline and funding constraints, there was not a City-wide review performed to get input from other departments, nor was there a consultant procured to prepare the schematic.

The acreage as referenced in the grant application was a total of 1.9 acres. For clarification, neither “gross” nor “useable” was specified. Typically, though, when there is no reference to gross or useable, gross is implied, as was the case here. The gross acreage remains the same, as submitted in the grant application, approximately 1.9-acres. The usable acreage also remains the same as shown on the schematic and on the grant application, which is approximately 0.4 acres (Attachment 6).

Finally, as submitted in the grant application, the amenities in the park remain unchanged and include picnic areas, children play areas and areas for passive recreation. These amenities are only assumed. In the future, community workshops will be conducted to determine the park amenities. Still included in the project are trails adjacent to the creek, enhanced buffer area and interpretive signage. The only

difference in what was submitted to the State is that the existing undeveloped right of way (Ontario-Winona Avenue) was shown to be landscaped. The proposed project now includes developing the existing right-of-way. Street vacations were not described in the grant application. Again, the schematic submitted in the application was preliminary and did not include extensive reviews by other departments (Attachment 21).

Road Funding - For clarification, design of the road is not funded via the State grant. Construction of the road currently remains unfunded and would also not be funded from the State grant. Accounting tracks the road and park expenses separately.

Environmental Analysis - The appellant believes that the Mitigated Negative Declaration is seriously flawed because the Initial Study "Checklist" prepared for the grant application in January, 2004, did not include the road alignment for Ontario-Winona Avenue. The purpose of an Initial Study Checklist is to provide staff with information to use as the basis for deciding whether to prepare an Environmental Impact Report, Mitigated Negative Declaration, Negative Declaration, or an exemption pursuant to State CEQA Guidelines. At the time the checklist was prepared City staff assumed that the paper street (Ontario-Winona Avenue) was to be vacated. However, subsequent to the grant application the project changed to include the road connection reflecting input from the community.

While the road connection was not included in the Initial Study Checklist it does not render the Mitigated Negative Declaration invalid. The proposed Mitigated Negative Declaration thoroughly evaluated all project components and features pursuant to CEQA, including the road connection.

5. The project is in conflict with the City's requirement regarding the implementation of the Euclid Avenue Revitalization Action Program (RAP) recommendations.

The purpose of the Euclid Avenue Revitalization Action Program (RAP) is to identify revitalization strategies for a portion of Euclid Avenue and surrounding neighborhoods located between El Cajon Boulevard and Home Avenue. The RAP provides a strategy and action program designed to implement the goals of the Mid-City Communities Plan (1998) based on the objectives identified by residents and business owners.

The RAP contains recommendations involving the creation of a road connection between Auburn Drive and Winona Avenue. These recommendations were to either close Auburn Drive south of Wightman Street or to implement one-way traffic follow on Wightman Street and upper Auburn Drive. One-way traffic on Wightman Street and upper Auburn Drive has been implemented instead of closing Auburn Drive south of Wightman Street. Separate recommendations for streetscape improvements in the RAP recommend developing a neighborhood park on Auburn Drive, in conjunction with any future roadway construction linking Winona Avenue and Ontario Avenue. Additionally, the RAP's land use section recommends that opportunities for developing a park in the vicinity of Auburn Drive and Winona Avenue should be done in conjunction with Chollas Creek preservation and the development of a street linking Ontario and Winona Avenue, which are being implemented through this project.

The provision of a road connecting Winona Avenue and Auburn Drive could serve to facilitate police and fire and life safety access to the area, which would implement the goals in the Mid-City Communities Plan for reducing criminal activity and maintaining a high level of fire and life safety throughout the community. Additionally, given that the project site is undeveloped and traversed daily by local residents, the provision of the proposed street connection would also provide improved pedestrian access that would consist of a 5-foot sidewalk and landscaping where none currently exist.

While the site is zoned and designated for multi-family residential development, the proposed park is supported due to the existing deficiencies in park and recreational facilities in the community and therefore, would not adversely affect the goals and objectives of the Mid-City Communities Plan. The proposed project would also meet the intent of the Chollas Creek Enhancement Plan by providing linear park opportunities in the vicinity of the creek, improving and restoring creek habitat, and providing pedestrian access along Chollas Creek. In addition, the proposed project would implement strategies in the Euclid Avenue Revitalization Program for the creation of a neighborhood park at this location in conjunction with the development of a street connection between Winona Avenue and Ontario Avenue and the enhancement of Chollas Creek.

6. The Findings for the road portion of the project is not supported.

One of the findings for a Site Development Permit is, *“The proposed development will not adversely affect the applicable land use plan”*. While the proposed project site is zoned and designated for multi-family residential development in the Mid-City Communities Plan, the proposed park would serve to address the existing deficiencies of park and recreational facilities in the City Heights Community. The Public Facilities Element of the community plan recommends evaluating all vacant and publicly owned land, including streets and unimproved rights-of-way for potential use as park and recreation facilities. The proposed project meets this recommendation by proposing a neighborhood park on currently vacant land.

According to the Natural and Cultural Resources Element of the community plan, one of its goals in regards to canyons and creeks is to preserve and enhance Chollas Creek as a linear open space system to provide passive recreational opportunities, visual relief, and biological habitat preservation (Attachment 20). The proposed project would achieve this goal by meeting the intent of the Chollas Creek Enhancement Program by providing linear park opportunities at the vicinity of the Auburn Branch of Chollas Creek, improving and restoring creek habitat, and providing pedestrian access along the creek through the provision of sidewalks and 5-foot wide decomposed granite trail along the creek.

Improvements to Auburn Creek would include the clean-up of trash and debris, the removal of non-native plant species, and the revegetation of plant species in accordance with the CCEP planting guidelines, within a 20-foot wide buffer area adjacent to the creek. A 20-foot wide buffer would be maintained on the east side of the creek adjacent to Ontario Avenue and on the north and south sides of the creek adjacent to Landis Street, which is currently unimproved. Because of existing slope conditions, a 5-foot decomposed granite pedestrian trail would be constructed within the landscape

buffer located on the east side of the creek and adjacent to Ontario Avenue. Although the CCEP recommends an 8 to 10-foot pedestrian trail wherever existing width allows, the proposed project would still meet the intent of the CCEP by providing access along the creek. The 5-foot wide trail would allow for more planting area within the buffer and because of the sloping grade of the buffer area, would reduce incidence of slope erosion or the need of retaining walls. The proposed park area would be located south of the creek adjacent to Landis Street along with a 6-foot wide concrete sidewalk proposed around the perimeter of a turf area. An overlook area along with seating and interpretive signs is also proposed in this area to provide visual access to the creek, south of Landis Street (Attachment 5).

In addition, the proposed project would implement the strategies in the Euclid Avenue Revitalization Action Program for the creation of a neighborhood park at this location in conjunction with the development of a street connection between Winona Avenue and Ontario Avenue and the enhancement of Chollas Creek. Therefore, the proposed development will not adversely affect the applicable land use plans associated with the project site.

Conclusion:

While the site is zoned and designated for multi-family residential development the proposed park is supported due to the existing deficiencies in park and recreational facilities in the community and, therefore, would not adversely affect the goals and objectives of the Mid-City Communities Plan. The proposed project would also meet the intent of the Chollas Creek Enhancement Plan by providing linear park opportunities in the vicinity of the creek, improving and restoring creek habitat and providing pedestrian access along Chollas Creek. In addition, the proposed project would implement strategies in the Euclid Avenue Revitalization Program for the creation of a neighborhood park at this location in conjunction with the development of a street connection between Winona Avenue and Ontario Avenue and the enhancement of Chollas Creek. In conclusion, staff recommends that the appeal be denied and the decision of the Hearing Officer to approve the project be upheld.

ALTERNATIVE

1. Approve the request to deny the project.

Respectfully submitted,

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Acting Deputy Director, Customer Support
and Information Division
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Patricia Grabski, AICP
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HALBERT/PG

Attachments:

1. Aerial Photograph
2. Location Map
3. Community Plan Land Use Map
4. Site Photographs
5. Project Site Plan
6. State Grant Application/Schematic
7. Draft Permit with Conditions
8. Draft Resolution with Findings
9. Copy of Appeal
10. Ownership Disclosure Statement
11. Community Planning Group Recommendation
12. Project Chronology
13. Hearing Officer Report No. HO 05-176
14. Project Name Documentation
15. Appellant's Letter to Hearing Officer, October 4, 2005
16. Page 15, Initial Study Checklist
17. Figure 5, Mid-City Communities Community Plan
18. Page 17, Mid-City Communities Community Plan
19. Planning Group Agenda
20. Page 41, Mid-City Communities Community Plan
21. Comparison Between Grant Application and Project
22. Information Submitted in Opposition and Support to the Hearing Officer at the October 12, 2005 public hearing