

SUBJECT AREAS THAT CAN BE USED IN SENDING A LETTER TO THE MEMBERS OF THE PLANNING COMMISSION.

AREA 1: Arguments against removal of the oaks.

- (a) Violation of the Intent of Oak Woodland Ordinance (see also p.3).
- (b) Ecological damage to the large number of species (birds, reptiles, animals, insects, lichens, Fungi etc) that make a single tree their habitat.
- (c) Removal of an important carbon storage sink through storage as wood and soil enrichment with litter, where removal will contribute to global warming.
- (d) Role of oaks in local climate moderation, providing shade and cooling, particulate matter removal, and protection of shade-loving species.
- (e) Oaks are considered an important visual resource, enhancing the value of the landscape to Nipomo residents.
- (f) SLO County has already destroyed a large number of oaks to make room for the Willow Road Extension. Mitigation against this loss by planting tiny oaks on unsuitable soil to the east of the Dana Adobe has been an abject failure. This was not addressed in the EIR which is limited to examine cumulative impacts only for future projects.

AREA 2: Arguments against the destruction of Burton Mesa Chaparral (BMC).

BMC is a unique assemblage of plants and associated animals that is dependent on soil generated from ancient sand dunes. Nearly all of BMC habitat has been destroyed in San Luis Obispo County, with a small pocket remaining on the proposed Dana Reserve. The project will destroy 96% of this rare habitat, with no clear ability to mitigate the loss.

AREA 3: VIOLATIONS OF EXISTING PLANNING STANDARDS

(1a) The County's Land Use Ordinance lists the limiting requirements for a future Specific Plan of the Dana Reserve area to include the following provision: "***b. Oak habitat preservation. Designation of the existing oak forest habitat for open space preservation, where limited recreational and open space uses may be allowed.***"

The section requires conserving the existing oak forest habitat on site. Project does preserve 17 of 21.7 acres of oak forest, but it removes 75 acres of oak woodland. The Project is inconsistent with the Ordinance.

(2b) County General Plan's Conservation and Open Space Element (COSE) cites the following goals: "*San Luis Obispo County seeks to conserve and protect important natural resources while balancing the needs of the natural and built environments. The County will: **promote efforts that will prevent or eliminate damage to the environment**; support environmental restoration; protect the health and welfare of the community; **preserve ecological systems**; and ensure long-term economic, social and environmental vitality."*

(2b1) In 2010 COSE added the goal for increased protection of oak woodlands and other native habitats. The Dana Reserve specific plan is a clear violation of COSE's goal.

(2b2) There are other conflicts with COSE's goals (COSE goals are defined as " ...an ideal future result or condition...")

The COSE Goal BR 1 states: *Native habitat and biodiversity will be protected, restored and enhanced*. The proposed destruction of the oak woodland and Burton Mesa Chaparral habitat is a clear conflict with BR 1.

To attain Goal BR 1, the County adopted the following policies. COSE defines Policy as " A *statement derived from a goal that represents the County's adopted position and guides decision-making toward the goal.*" These policies are intended to guide decision making. The Policies of great significance are:

Policy BR 1.1: Protect Sensitive Biological Resources

Policy BR 1.2: Limit Development Impacts

Policy BR 1.4: No Net Loss

Policy BR 1.9: Preserve Ecotones

Policy BR 1.10: Identify and Protect Ecologically Sensitive Areas

The COSE Goal BR 2 states: *Threatened, rare, endangered, and sensitive species will be protected*. The project EIR notes that 17 sensitive species will be impacted by this project, in conflict with BR 2. The Goal is addressed in Policy BR 2.6 concerning minimizing or eliminating impacts to listed species. The Pismo clarkia will be severely impacted by the project.

The COSE Goal BR 3 states: *Maintain the acreage of native woodlands, forests, and trees at 2008 levels*. The project would result in the direct loss of 35 acres of Burton Mesa chaparral (97%), 75 acres of oak woodland (96%), and 21.7 acres of oak forest. The project DOES NOT maintain the acreage of these resources and is in conflict with BR 3. Goal BR 3 is supported by three policies, all of which are violated by this project:

Policy BR 3.1: Native Tree Protection

Policy BR 3.2: Protection of Native Trees in New Development

Policy BR 3.3: Oak Woodland Preservation

The COSE Goal OS1 states: *Important open space areas will be identified, protected, sustained, and where necessary, restored and reclaimed*. It is clear that this project severely diminished open space. Goal OS-1 is supported by three policies, all of which are violated by this project.

Policy OS 1.1: Protect open space resources with certain characteristics

Policy OS 1.7: Open Space resource protection (by guiding development away from rural areas to more suitable areas)

Policy OS 1.8: Land Divisions and Development (this encourages cluster development which would be possible in a reduced and redesigned project)

The COSE Goal OS 4 states: *Urban sprawl and inappropriate development of rural areas will be prevented.* This project injects dense urban development into a rural area, as illustrated by surrounding current land uses. Associated Policy OS 4.3 opposes the conversion of Rural Lands to Urban Lands.

The COSE Goal VR 2 states: *The natural and historic character and identity of rural areas will be protected.* The EIR finds that the project “*would inherently change the visual character of the site and surroundings through the introduction of commercial, institutional, and residential development; the removal of over 4,000 mature oak trees; and substantial landform alteration*”

(3) Land Use and Circulation Element: Framework for Planning (Inland) Revised 2015

This document defines ‘Strategic Growth Principles’ the first of which includes:

Strategic Growth Principle 1: *Preserve open space, scenic natural beauty, and natural resources.*

The EIR states “*Although the project would preserve the existing oak ridge, the project would inherently change the visual character of the site and surroundings through the introduction of commercial, institutional, and residential development; the removal of over 4,000 mature oak trees; and substantial sensitive habitat loss and landform alteration*”

Strategic Growth Principle 2: *Strengthen and direct development toward existing and strategically planned communities.*

Principle 2, Policy 1 requires that rural areas be maintained in “very low-density residential uses.” The project through its large number of residential units and commercial uses would change the character of the area and thus be inconsistent with this policy.

(4) Title 22 Land Use Ordinance Chapter 22.58 Oak Woodland Ordinance

The Ordinance applies outside of the Nipomo Urban Reserve Line, as is Dana Reserve, which is adjacent to the line. It applies to the clear-cutting of oak woodland, which clearly applies in this project. A Conditional Use Permit approval is required to clear-cut more than three (3) acres of a Site's Oak Woodland over a ten year period. Clear-cutting shall be cumulative where the clear-cutting may not exceed the permitted amount during one event or multiple events occurring over a ten year period.....**but.....**Cutting can be allowed “ if there is an ‘*approved Oak Woodland Management Plan*’ which the developer claims is wrapped in the proposed Specific Plan and its proposed off-site mitigation. This is a clear violation of the intent of the Ordinance.

AREA 4: LOCAL CONCERNS

(1) Inadequate resources in local area to support such a large population increase. Traffic schools etc. This area already covered by NAC speakers and writers

(2) Had the developer requested the allowable destruction of the oak woodland for market-rate housing, the project would probably been forced to develop outside of the woodland. The developer's concept document indicates that only 75 of 1,270 units are planned to be 'affordable'. Adding just 6% affordable units is too small to justify the environmental impacts.

(3) This project does not qualify for the negating of environmental concerns implied through SB 330's encouragement of affordable housing due to conflicts with existing planning policy.

(4) The proposed market is an up-scale market with prices well above average. This is not appropriately sited concerning vehicle miles need to reach the market, and does not serve the needs of much of Nipomo due to high prices.

(5) The agreement of the Cuesta College Trustees to build an extension in the commercial area on a donated site is probably not feasible due to lack of bond money, increased commuter distance from existing facilities at Arroyo Grande High School, and parking conflicts with other businesses. The demand for additional Cuesta College services in Nipomo has not been demonstrated or documented and thereby increases the difficulty in obtaining a bond for construction and fulfillment

Position Statement of Nipomo Action Committee on Proposed Dana Reserve

We oppose the Dana Reserve project as proposed.

We oppose the size and scale of this project as it will have lasting impacts to the health safety, and quality of life of both existing and new residents. The FEIR cites 6 un-mitigatable class one impacts including Air Quality, Biology, Land Use Planning, Population and Housing, Transportation and Growth Inducing impacts.

The plan proposes high density housing where infrastructure does not currently exist outside the urban reserve line instead of within the existing Olde Towne and commercial corridor area where existing infrastructure and space for affordable housing does exist and is in fact designated for such in the South County General Plan.

Recreational opportunities are lost in the proposed plan with the destruction of Oak Woodlands, as opposed to the existing and proposed recreational resources which have been identified within the Recreation and Open Space Element of the General plan that protects and enhances the habitat of Nipomo Creek and is easy walking distance from Olde Towne business corridor.

Statements from the developer about economic viability should not be the primary consideration. It is not the County's responsibility to make the project economically viable for the developer, it is the County's responsibility to ensure the project is safe, sustainable and desirable for both existing and new residents.

We encourage the Planning Commission to either deny the project as proposed or to take the time and send this back to staff with direction to find the right combination of the Alternatives within the FEIR. A reasonable alternative should move the needle regarding true affordable housing for low to moderate income buyers, leave the Oak woodland and associated habitat in place with minimal impacts, reduce the traffic, population and pollution impacts. This would also allow time for stakeholders and the community to become constructively engaged in the possibilities of an acceptable project.

Each proposed project alternative has a significant flaw either in meeting the project purpose, or aesthetics etc. but we think there may be a solution found using elements of Alternative 2 consistent with the existing South County Area Plan and Alternative 4 that meets project objectives but should be reduced in scope to reduce similar impacts, address aesthetics and offers proper transitions to existing neighbors. Both alternatives 2 & 4 keep habitat in place.

The Nipomo Action Committee will remove opposition to the project if the project is reconfigured to reduce the multiple impacts identified, is smaller in size and scope, and leaves habitat in place to reduce the biological impact.

Whether the project is approved or not, we recommend a feasibility study for the affordable housing in the Nipomo area that will help agencies and community stakeholders identify where best opportunities are located.

Regarding the project as proposed:

Oak woodland and associated Burton Mesa Chaparral on the project site is a unique and irreplaceable biological habitat, and the largest remaining Oak woodland on the Nipomo mesa with endangered and special status plants.

As referenced in the FEIR there is no suitable location for the replacement of Burton mesa chaparral which is also difficult to re-establish. The proposed off-site mitigation for Oaks is not a replacement of oaks or like habitat and sets an alarming precedent for the future of oak woodlands in our county.

We cannot afford the loss of the climate stabilizing benefits of 3000+ oak trees in this time of climate crisis.

The crisis people face with lack of affordable housing needs and the crisis of climate change must not be pitted against each other, as they are not mutually exclusive issues and there are suitable locations for affordable housing both on the subject property and elsewhere in the community that do not decrease our resilience to impacts of climate change.

A recommendation from the County Staff for making a Declaration of Overriding Concern necessary to approve this project, uses SB 330 Housing Crisis Act of 2019 as legal cover. This is a mis-application of legislation and was certainly not intended for a location where the environmental losses would be so extensive, or the inclusion of affordable housing would create so many Class 1 and Class 2 impacts, and with such inconsistencies with land use planning.

Both State and County fast-track legislations, on one of the largest and arguably the most complex projects in County history, have another set of consequences. By accelerating initial concepts, reducing the time frame and reworking the Draft EIR for almost a year without community and stakeholder input, an invaluable opportunity for consensus planning was lost, and by far the majority of voices speaking have risen to stand in opposition having felt dis-enfranchised. The South County Advisory Council voting to deny the project is the result.

If this project were to be approved as proposed despite the outcry another consequence of this approach would be a loss confidence in local government

Stephanie Pincetl is a Professor at the UCLA Institute of the Environment and Sustainability and Founding Director of the California Center for Sustainable Communities at UCLA stated it well when she said of this project:

"The proposal is yet another example of 20th century approaches to land use that have caused the current climate crisis. It will generate absolute vehicle miles traveled, destroy carbon sequestering oak habitat that is not substitutable or mitigable (habitat is unique to place, it's not a generic concept, interchangeable anywhere), perpetuate segregation and exposure of lower income populations to higher sources of emissions, will generate serious run off, and more."