

REPORT TO CITY COUNCIL

DATE: SEPTEMBER 13, 2006

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER

BY: MIKE KAMINO, DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT

SUBJECT: CONDUCT A PUBLIC HEARING REGARDING AN APPEAL OF THE PLANNING COMMISSION'S DENIAL OF CONDITIONAL USE PERMIT CASE NOS. 03-CUP-010 AND 98-CUP-007, OAK TREE PERMIT CASE NO. 98-OTP-011, WHICH WAS A REQUEST TO DEVELOP 27 DETACHED SINGLE-FAMILY RESIDENCES ON TWO RECORDED RESIDENTIAL TRACTS, TO REMOVE 33 OAK TREES AND ENCROACH WITHIN THE PROTECTED ZONE OF 15 OAK TREES FOR THE PROPOSED CONSTRUCTION ON THE SOUTH SIDE OF AGOURA ROAD, EAST OF CALLE MONTECILLO AND WEST OF LIBERTY CANYON ROAD, AND ADOPTION OF A MITIGATED NEGATIVE DECLARATION (RIOPHARM USA, INC., APPLICANT) – CONTINUED FROM JUNE 28, 2006

The request before the City Council is to conduct a public hearing to consider an appeal by the applicant of the Planning Commission's denial of Conditional Use Permit Case Nos. 03-CUP-010 and 98-CUP-007 and Oak Tree Permit Case No. 98-OTP-011. The applicant for these cases, Riopharm USA, Inc., requested approval to develop a total of 27 single-family detached residences on two recorded residential tracts. The vacant hillside property is located on the south side of Agoura Road, east of Calle Montecillo and west of Liberty Canyon Road.

The Planning Commission denied the requests for the Conditional Use Permits and Oak Tree Permit on December 1, 2005. The applicant appealed the Planning Commission's action to the City Council. An appeal hearing was held on February 22, 2006 and Council Members Koehler and Schwarz abstained from participating. The City Council expressed concerns with the proposed development, specifically in regard to the proposed density of the Agoura I tract, the sizes of the homes, the desire for more single-story units and larger yard areas, and the desire to minimize oak tree impacts. The City Council continued the public hearing to May 24, 2006 to allow the applicant an opportunity to revise the plans based on issues raised by the Council during the hearing. A second continuance was granted by the City Council, at the request of the applicant, to the June 28, 2006 City Council Meeting to allow for additional time to prepare project exhibits. The applicant subsequently requested a third continuance to the September 13, 2006 City Council Meeting to again allow for additional time to prepare project exhibits that are now included with the project plans.

The applicant has revised the project plans since the initial appeal hearing for consideration by the

City Council. Proposed impacts to Oak trees have not changed. A summary of the project changes are provided below. The applicant has also provided an attached summary sheet of the project changes:

I. AGOURA I TRACT

1. Density: The applicant reduced the density of the tract from 14 units to 12 units by eliminating one lot from the west side of the tract and one lot from the east side of the tract.
2. Sizes of Residences: Six of the 12 units are single-story in height. The applicant had previously proposed all two-story homes within the tract. Three single-story homes are now proposed on Lots 1, 2 and 3, on the east side of the tract, and three others are proposed on Lots 8, 9 and 10 on the west side of the tract. The proposed changes in the sizes of the homes are shown in the two tables below:

PREVIOUSLY REVIEWED BY THE CITY COUNCIL

<u>Model No.</u>	<u>No. of Units</u>	<u>Sizes of Residences</u>
Unit A	5	2,768 sq. ft. + 441 sq. ft. garage (3,209 sq. ft.)
Unit B "Short"	3	2,581 sq. ft. + 440 sq. ft. garage (3,021 sq. ft.)
Unit B	5	2,729 sq. ft. + 451 sq. ft. garage (3,180 sq. ft.)
Unit C	1	2,698 sq. ft. + 440 sq. ft. garage (3,138 sq. ft.)

CURRENT PROPOSAL

<u>Model No.</u>	<u>No. of Units</u>	<u>Sizes of Residences</u>
Unit A	5	2,347 sq. ft. + 420 sq. ft. garage (2,767 sq. ft.)
Unit C	1	2,698 sq. ft. + 440 sq. ft. garage (3,138 sq. ft.)
Unit D	6	2,325 sq. ft. + 420 sq. ft. garage (2,745 sq. ft.)

3. Yard Areas

The front and rear yard areas within the tract have essentially remained as previously proposed, with the exception of three lots. The rear yard on Lot 2 has increased from 15 feet to 19.49 feet. The front yards of three lots, measured to the edge of the street pavement, have also increased. The front yard on Lot 1 has increased from 16 feet to 19.5 feet. The front yards on Lots 5 and 11 have increased from 34.9 feet to 36.18 feet, and from 19.5 feet to 21.9 feet respectively. The side yards within the tract, which ranged from 5 feet to 10 feet, have been modified to allow for 7-foot minimum side yards for each home.

II. AGOURA II TRACT

1. Density: The applicant has not modified the proposed density within this tract, which remains at 13 units.
2. Sizes of Residences: The applicant had previously proposed 4 of the 13 units to be single-story in height and to include a below-grade basement. The applicant is now proposing to provide for 3 residences of a single-story height, two of which would include a below-grade basement (Lots 10 and 13). Lot 1 would be a true single-story residence with no basement. Seven (7) different models are now proposed within the tract. The proposed changes to the size of the homes are shown in the two tables below:

PREVIOUSLY REVIEWED BY THE CITY COUNCIL

<u>Model No.</u>	<u>No. of Units</u>	<u>Sizes of Residences</u>
1-A and 1-B	3	3,465 sq. ft. + 628 sq. ft. garage (4,093 sq. ft.)
2-A and 2-B	4	3,665 sq. ft. + 622 sq. ft. garage (4,287 sq. ft.)
3-A and 3-B	2	4,145 sq. ft. + 720 sq. ft. garage (4,865 sq. ft.)
4-A and 4-B	4	3,484 sq. ft. + 441 sq. ft. garage (3,925 sq. ft.)

CURRENT PROPOSAL

<u>Model No.</u>	<u>No. of Units</u>	<u>Sizes of Residences</u>
1-A (Lot 11) and 1-B (Lot 9)	2	3,465 sq. ft. + 628 sq. ft. garage (4,093 sq. ft.)
2-A (Lot 2)	1	3,570 sq. ft. + 583 sq. ft. garage (4,153 sq. ft.)
2-A (Lot 5)	1	3,477 sq. ft. + 619 sq. ft. garage (4,096 sq. ft.)
2-B (Lot 8)	1	3,563 sq. ft. + 580 sq. ft. garage (4,143 sq. ft.)
2-B (Lot 12)	1	3,665 sq. ft. + 619 sq. ft. garage (4,284 sq. ft.)
3-A (Lot 4) and 3-B (Lot 3)	2	3,904 sq. ft. + 666 sq. ft. garage (4,570 sq. ft.)
3-A (Lot 7) and 3-B (Lot 6)	2	4,145 sq. ft. + 720 sq. ft. garage (4,865 sq. ft.)
4-A (Lot 1)	1	2,529 sq. ft. + 471 sq. ft. garage (3,000 sq. ft.)
4-A (Lot 10) and 4-B (Lot 13)	2	3,284 sq. ft. + 462 sq. ft. garage (3,746 sq. ft.)

3. Yard Areas

The front yard areas of Lots 1 through 4, on the west side of the tract, have increased by approximately 2 feet. This has resulted in smaller rear yard areas for the same lots. Side yards have also been modified to allow for at least 8 feet, and in most instances greater than 8 feet, between every building and the side property lines. The building footprints for Lots 6 and 7 have been

relocated, allowing for greater separation between the buildings.

4. Retaining Walls

The retaining wall systems have been modified for Lots 6, 7, 10, 12, 13 and 14 to accommodate larger yard areas. A redesigned and additional retaining wall is proposed in the rear yard of Lot 6. The front yard retaining walls of Lot 7 have been redesigned in closer proximity to an Oak tree that staff had previously anticipated to be removed. An additional retaining wall is proposed in the south side yard of Lot 10. Front yard retaining walls are proposed to be extended on Lots 12 and 13. A retaining wall located on the south side of the Lot 14 (an open space lot) has been shortened in length.

The proposed retaining wall systems, as well as the lot line adjustments proposed to accommodate the change in density from the original tract maps, as well as the lot line adjustments proposed for the Agoura I tract, will be subject to review by the City Engineer and the City Geotechnical Consultant at the time of grading permit plan check.

III. ENVIRONMENTAL REVIEW

The appellant is requesting that the City Council adopt the Mitigated Negative Declaration (MND) and Mitigation Monitoring Plan that were prepared for the project in accordance with the California Environmental Quality Act (CEQA). The Planning Commission did not deem the MND adequate for adoption with respect to (1) the description of the oak tree impacts, (2) the adequacy of mitigation planning for oak tree impacts, and (3) the sufficiency of the applicant's efforts to avoid project layout and building design conflicts with existing tree canopy. The Planning Commission also rejected the Mitigation Monitoring Plan for biological resources, generally, and for oak tree impacts, specifically.

The City Environmental Analyst has reviewed the revised project plans and finds the revisions to be consistent with the analysis used in preparation of the project Mitigation Negative Declaration (MND), and no revisions to the MND were determined to be necessary. If the City Council denies the Conditional Use Permit for the project, CEQA does not require the City to adopt the MND prepared for the project.

RECOMMENDATION

It is recommended the City Council conduct a public hearing to consider an appeal of the Planning Commission's denial of Conditional Use Permit No. 03-CUP-010 and 98-CUP-011, and Oak Tree Permit Case No. 98-OTP-011. Staff also recommends that the City Council direct staff to return at a subsequent City Council Meeting with draft Resolutions (Nos. 06-1404, 06-1405 and 06-1406) for adoption of the project approval or denial, based on the latest project plans presented by the applicant.

Attachments: Summary Sheet of Project Changes (Submitted by the Applicant)

February 22, 2006 City Council Meeting Minutes
Letters presented to the City Council on February 22, 2006 (From Thomas Cohen and Mary
Wiesbrock)
Reduced Copies of the Project Plans
February 22, 2006 City Council Staff Report