



**DEPARTMENT OF PLANNING AND
COMMUNITY DEVELOPMENT**

TO: Planning Commission

FROM: Planning Staff

SUBJECT: Conditional Use Permit Case Nos. 03-CUP-010 and 98-CUP-007; and Oak Tree Permit Case No. 98-OTP-011

DATE: December 1, 2005

I. BACKGROUND AND DISCUSSION

The Planning Commission held public hearings on August 4, 2005, September 15, 2005 and November 17, 2005 to consider Riopharm USA, Inc.'s request for Conditional Use Permits, an Oak Tree Permit and a Variance to allow development on two recorded residential tracts for 27 detached, single-family residences (Case Nos. 03-CUP-010; 98-CUP-007; 98-OTP-011; and 04-VAR-004). The two vacant tracts are located on the south side of Agoura Road, east of Calle Montecillo and west of Liberty Canyon Road. The applicant withdrew their Variance request prior to the November 17, 2005 public hearing.

On November 17, 2005, the Planning Commission considered the revisions made to the project plans as proposed by the applicant. Based on the written and oral testimony presented, the Planning Commission expressed concerns with the sizes of the homes and the anticipated impacts to the Oak trees on the property. The applicant requested a final decision from the Planning Commission regarding their Conditional Use Permit applications and Oak Tree Permit application. The Planning Commission subsequently directed staff on a 5-0 vote to return on December 1, 2005 with Resolutions of denial for the project.

Attached are three separate draft Resolutions of denial for the Planning Commission to consider adopting for the two Conditional Use Permit applications and the Oak Tree Permit application. The Conditional Use Permit Resolutions include findings that state the Planning Commission did not deem the Mitigated Negative Declaration adequate for adoption with respect to (1) description of oak tree impacts, (2) the adequacy of mitigation planning for oak tree impacts, and (3) the sufficiency of applicant efforts to avoid project layout and building design conflicts with existing tree canopy. The findings also state that the Planning Commission also rejects the Mitigation Monitoring Plan for biological resources generally and for oak tree impacts specifically. If the Planning Commission denies the Conditional Use Permits for the project, the California Environmental Quality Act does not require the City to adopt the Mitigated Negative Declaration prepared for the project.

II. RECOMMENDATION

Based on direction given by the Planning Commission on November 17, 2005, staff recommends that the Planning Commission adopt motions to deny Conditional Use Permit Case Nos. 03-CUP-010 and 98-CUP-007, and Oak Tree Permit Case No. 98-OTP-011, based on the findings of the draft Resolutions.

III. ATTACHMENTS

- Draft Resolution of Denial for Case No. 03-CUP-010 (Agoura I Tract)
- Draft Resolution of Denial for Case No. 98-CUP-007 (Agoura II Tract)
- Draft Resolution of Denial for Case No. 98-OTP-011 (Oak Tree Permit)

DRAFT RESOLUTION NO. ____

A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF AGOURA HILLS
DENYING CONDITIONAL USE PERMIT CASE NO. 03-CUP-010

THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS HEREBY FINDS, RESOLVES, AND ORDERS AS FOLLOWS:

Section I. An application was duly filed by Riopharm USA, Inc. with respect to the real property located within Tract 48901, on the south side of Agoura Road, east of Calle Montecillo (Assessor's Parcel Nos. 2061-014-(007-015)(018-020)(023-026)), requesting approval of a Conditional Use Permit to allow the development of fourteen (14) detached single-family residential units. Public Hearings were duly held on August 4, 2005, September 15, 2005, November 17, 2005 and December 1, 2005 at 6:30 p.m. in the City Council Chambers, City Hall, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place and purpose of the aforesaid hearing was duly given.

Section II. Evidence, both written and oral, was duly presented to and considered by the Planning Commission at the aforesaid Public Hearings.

Section III. Pursuant to Section 9673.2.E of the Agoura Hills Zoning Ordinance, the Planning Commission finds that:

A. The proposed use is not consistent with the objectives and provisions of the Zoning Ordinance and the purposes of the land use district in which the use is located. The project, as proposed, consists of fourteen (14) detached, two-story, single-family residential units of sizes and massing that are incompatible for sizes of the lots.

B. The proposed use is not compatible with the surrounding properties. The project, as proposed, lacks single-story residences within the tract that are typical of existing residential tracts within the neighborhood. The residential lots do not provide for sufficient yard areas to minimize the visual impacts and to preserve views, light, air and open space to neighboring properties.

C. The proposed use and the conditions in which it will be operated or maintained, will be detrimental to the public health, safety, or general welfare. The two-story residential units and yard areas, as proposed, will not preserve the light, air, privacy and open space to the surrounding parcels within the tract and adjacent to the tract.

D. The proposed use will not comply with each of the applicable provisions of the Zoning Ordinance. The general residential development standards of the Zoning Ordinance call for all development to be compatible with the rural character of the neighborhood. The massing of the two-story residential units, the proposed lot coverage and yard sizes are incompatible with existing neighboring uses. The project does not provide for

the provision of adequate buffering from adjacent residential uses and the preservation of views from existing development.

E. The proposed use is not consistent with the goals, objectives and policies of the General Plan. The two-story residential units and the proposed yard sizes, as well as the proposed reduction in common area within the tract does not maintain an awareness of the City's natural environmental setting, as called for in the General Plan Community Design Element.

Section IV. In accordance with the California Environmental Quality Act, the City has provided public notice of the intent to adopt a Mitigated Negative Declaration for this project. Based upon the initial study, public comments and the record before the Planning Commission, the Planning Commission finds that the Mitigated Negative Declaration identifies potentially significant environmental effects of the project and that it was prepared pursuant to the California Environmental Quality Act. The Planning Commission has reviewed the information contained in the Mitigated Negative Declaration and finds that the proposed mitigation measures for proposed Oak tree impacts within the project area are inadequate. The Planning Commission therefore did not deem the Mitigated Negative Declaration adequate for adoption with respect to (1) description of oak tree impacts, (2) the adequacy of mitigation planning for oak tree impacts, and (3) the sufficiency of applicant 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.

Section V. Based on the aforementioned findings, the Planning Commission hereby denies Conditional Use Permit Case No. 03-CUP-010 with respect to the property described in Section I hereof.

PASSED, APPROVED, and ADOPTED this ____ day of _____, 2005, by the following vote to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

William Koehler, Chairman

ATTEST:

Mike Kamino, Secretary

DRAFT RESOLUTION NO. ____

A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF AGOURA HILLS
DENYING CONDITIONAL USE PERMIT CASE NO. 98-CUP-007

THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS HEREBY FINDS, RESOLVES, AND ORDERS AS FOLLOWS:

Section I. An application was duly filed by Riopharm USA, Inc. with respect to the real property located within Tract 48312, on the south side of Agoura Road, east of Calle Montecillo (Assessor's Parcel Nos. 2061-014-(027-042) and 2061-015-008), requesting approval of a Conditional Use Permit to allow the development of thirteen (13) detached single-family residential units. Public Hearings were duly held on August 4, 2005, September 15, 2005, November 17, 2005, and December 1, 2005 at 6:30 p.m. in the City Council Chambers, City Hall, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place and purpose of the aforesaid hearing was duly given.

Section II. Evidence, both written and oral, was duly presented to and considered by the Planning Commission at the aforesaid Public Hearings.

Section III. Pursuant to Section 9673.2.E of the Agoura Hills Zoning Ordinance, the Planning Commission finds that:

A. The proposed use is not consistent with the objectives and provisions of the Zoning Ordinance and the purposes of the land use district in which the use is located. The general residential development standards of the Zoning Ordinance call for all development to be compatible with the rural character of the community. The project, as proposed, does not preserve and protect the natural features of the property, including landscaping, within the tract without requiring significant and detrimental impacts to the on-site Oak trees.

B. The proposed use is not compatible with the surrounding properties. The proposed building lot coverage within the tract is greater than neighboring residential tracts and is incompatible with the intensity of existing residential development in the vicinity.

C. The proposed use and the condition in which it will be operated or maintained, will be detrimental to the public health, safety, or general welfare. The proposed grading will significantly impact the on-site Oak trees and will, therefore, be detrimental to the general welfare in that the proposed development will not preserve existing landscape resources.

D. The proposed use will not comply with each of the applicable provisions of the Zoning Ordinance. The general residential development standards of the Zoning Ordinance call for all development to be compatible with the rural character of the neighborhood. The proposed lot coverage and yard sizes are incompatible with existing

neighboring uses. The project does not provide for the provision of adequate buffering from on-site Oak trees.

E. The proposed use is not consistent with the goals, objectives and policies of the General Plan. The placement of the residential units on the individual lots and the proposed impacts to the Oak trees does not maintain an awareness of the City's natural environmental setting, as called for in the General Plan Community Design Element.

Section IV. In accordance with the California Environmental Quality Act, the City has provided public notice of the intent to adopt a Mitigated Negative Declaration for this project. Based upon the initial study, public comments and the record before the Planning Commission, the Planning Commission finds that the Mitigated Negative Declaration identifies potentially significant environmental effects of the project and that it was prepared pursuant to the California Environmental Quality Act. The Planning Commission has reviewed the information contained in the Mitigated Negative Declaration and finds that the proposed mitigation measures for proposed Oak tree impacts within the project area are inadequate. The Planning Commission therefore did not deem the Mitigated Negative Declaration adequate for adoption with respect to (1) description of oak tree impacts, (2) the adequacy of mitigation planning for oak tree impacts, and (3) the sufficiency of applicant 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.

Section V. Based on the aforementioned findings, the Planning Commission hereby denies Conditional Use Permit Case No. 98-CUP-007 with respect to the property described in Section I hereof.

PASSED, APPROVED, and ADOPTED this ____ day of _____, 2005, by the following vote to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

William Koehler, Chairman

ATTEST:

Mike Kamino, Secretary

DRAFT RESOLUTION NO. ____

A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF AGOURA HILLS
DENYING OAK TREE PERMIT CASE NO. 98-OTP-011

THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS HEREBY FINDS, RESOLVES, AND ORDERS AS FOLLOWS:

Section I. An application was duly filed by Riopharm USA, Inc. with respect to the real property located within Tract 48901 and Tract 48312, on the south side of Agoura Road, east of Calle Montecillo (Assessor's Parcel Nos. 2061-014-(007-015)(018-020)(023-026), 2061-014-(027-042) and 2061-015-008), requesting approval of an Oak Tree Permit to remove thirty-three (33) Oak trees and encroach within the protected zone of fifteen (15) Oak trees for the development of 27 detached single-family residential units within the two tracts. Public Hearings were duly held on August 4, 2005, September 15, 2005, November 17, 2005, and December 1, 2005 at 6:30 p.m. in the City Council Chambers, City Hall, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place and purpose of the aforesaid hearing was duly given.

Section II. Evidence, both written and oral, was duly presented to and considered by the Planning Commission at the aforesaid Public Hearings.

Section III. Pursuant to Section 9657 of the Agoura Hills Zoning Ordinance, the Planning Commission finds that:

A. The purpose of the City Oak Tree Preservation Guidelines is to protect and preserve Oak trees in recognition of their historical, aesthetic and environmental value to the citizens of Agoura Hills, present and future, and to provide regulatory measures designed to accomplish this purpose.

B. The construction of 27 residential units on both tracts, as designed and proposed, cannot be accomplished without endangering the health of remaining Oak trees on the site. A total of 33 Oak trees are proposed for removal and 15 Oak trees are would be encroached upon for the proposed construction.

C. The project applicant did not adequately demonstrate that the on-site Oak trees prevent development of the properties to such an extent that alternative development plans cannot achieve the same density.

D. Approximately 32% of the total Oak tree canopy and root zone within both tracts is found to be impacted by the proposed construction. The City Oak Tree Preservation Guidelines allow for no more than 20% of the total tree canopy to be impacted. The City Oak Tree Consultant, upon reviewing the data submitted for the application and verifying her analysis with on-site inspections, found that the proposed impacts would adversely affect the health of the Oak trees.

E. The proposed mitigation measures for removal and encroachment within the protected zones of the Oak trees is inadequate for the extent of the impacts expected with the construction of this project.

Section IV. Based on the aforementioned findings, the Planning Commission hereby denies Oak Tree Permit Case No. 98-OTP-011 with respect to the property described in Section I hereof.

PASSED, APPROVED, and ADOPTED this ____ day of _____, 2005, by the following vote to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

William Koehler, Chairman

ATTEST:

Mike Kamino, Secretary