

# Nipomo Community Advisory Committee

## Meeting Minutes

September 26, 2005

Susie Hermreck-Chair

Present:       Vince McCarthy                      Bonnie Eisner  
                  Harry Walls                        Carol Mitchell  
                  Clyde Cruise                     Dan Woodson  
                  Rick Dean                            Jesse Hill  
                  El-Jay Hansson                 Stephanie Franks  
                  Susie Hermreck                Jim Harrison  
                  Ed Eby                             Alex Mendoza

### Additions/Deletions to the agenda

    Add to Old Business-San Antonio Multi family project  
    Add to Committee reports-West Tefft Corridor Design plan  
    Motion by El-Jay Hansson and seconded by Bonnie Eisner to add these items to  
the agenda. Motion passed unanimously.

### Approval of last month's minutes

    Motion by El-Jay Hansson and seconded by Bonnie Eiesner to accept the minutes  
as posted. Motion passed unanimously.

### Treasurer's Report

| Board Meetings | Dump fees | Library  | Park trees |
|----------------|-----------|----------|------------|
| \$2804.69      | \$2004.86 | \$845.45 | \$845      |

Stepanie noted that we had received our money from the County and that the Nipomo Community Park tree fund was growing rapidly. She has ordered the land use books and she will email the committee members when they arrive.

### Correspondence

    Letter from Jim Birch of Santa Maria opposing the Biorn asphalt plant.  
    Letter from Chet Boyd resigning from the NCAC.  
    Letter from SLO County risk Manager advising that members of the NCAC were  
covered by the County in case of civil suit.  
    Letter from the Land Conservancy noting their Quarterly meeting and dinner on  
9/29/05

### Chair Comments

    The Chair, Bonnie Eisner and Ed Eby attended the SLO Planning Commission  
meeting on 9/22/05 to address our concerns about the Grey Family Trust project.  
    The Commission denied the project. Susie noted that Vince McCarthy keeps track

of the BofS agenda and asked if anyone wanted to do the same for the Planning Commission agendas.

#### Community Presentations;

SLO County Sheriff's commander Basti reported no major crime in the last month. He reported on the Department's Holiday Crime prevention program and Identification Theft. He noted that the County has funded three rural crime prevention deputies who will be on duty seven days a week. The County has also funded spike strips for catching suspects in high-speed chases.

CDF-Geoff Money reported the department responded to 111 calls in August. He announced the annual pancake breakfast is scheduled for October 2 with proceeds going to fund their volunteers. A new fire engine will be available in October for the Mesa station. An accounting of response times will be forwarded to the NCAC.

SLO County Planning-Brian Pedrotti presented a list of new pending land-use projects

SLO County Code Enforcement Harly Voss noted that Tim Feilder is Nipomo's Code Enforcement officer. He reported that there is currently 18 permit construction violations being investigated in Nipomo. He lauded the Chamber of Commerce's and Mike Winn for a successful cleanup week.

#### Public Comment

Kevin Beauchamp presented a proposal for turning 2 lots into three lots on So. Oakglen.

Mike Winn announced the Chamber of Commerce breakfast meeting at seven AM at Blacklake tomorrow and the Octoberfest on October 8 in the Park.

Marianne Buckmeyer announced the Save the Mesa town hall meeting about the Crystal Oaks project on October 1 at 1:30 PM at NCSD.

Ed Eby announced the Native Plant Sale at Mid-State Bank on October 2 from 9 to 3:30 PM

Jim Tefft announced the Wine Flower and Art Festival on November 13 at the Kaleidoscope Inn.

Jesse Hill announced that a tentative agreement has been reached with County staff concerning the distribution of Quimby and PFF monies. The fees that are collected in Nipomo should now be staying in Nipomo.

Herb Kandell of Land Conservancy announced that the funding for the purchase of the Grizinger property for the Dana Adobe is in place but monies for the purchase of the Patterson property is still being negotiated.

#### Consent Agenda

**Willow Road EIR Report:** Response to report sent to SLO County

**Vista Roble LLC/SUB2005-00050:** Lot Line Adjustment between two parcels of 39,025 sq ft and 64,438 sq ft resulting in two parcels of 37,732 sq ft and 70,731 sq ft. Located at the NW corner of Pomeroy and Willow **Land Use recommends approval**

Motion by El-Jay Hansson and seconded by Bonnie Eisner to accept the consent agenda as presented in the meeting agenda. Motion passed unanimously.

#### Old Business

Traffic and Circulation Study(insert)

Motion by Rick Dean and seconded by Jim Harrison that the attached “response” be sent in letter form to appropriate County officials, and that the SCTMUD Final report be rejected by the NCAC as insufficient and grossly inaccurate. Though we are not privy to the financial arrangement you have with the consultant we ask that you insist that the errors be corrected as part of the current contract. Motion passed unanimously.

Motion by Rick Dean and seconded by Vince McCarthy that Halcyon Funds and all expenditures thus far be reimbursed back to Area Two to used for Area Two and the NCAC does not support the Halcyon Realignment until we have an up-to-date study with valid 2005 traffic numbers. Motion passed Yes 11 No 1

#### Vista Robles

Motion by Jim Harrison and seconded by Carol Mitchell to support the Vista Robles-LLC MUP for grocery store with deli and restricted to daytime hours of operations. Motion passed unanimously.

#### **Bijorn EIR**

### **Nipomo Community Advisory Council Response to Draft Environmental Impact Report for Biorn Land Use Ordinance Amendment and Conditional Use Permit ED03-344, -345 (G020020M/D020293D)**

After careful review, the Nipomo Community Advisory Council (NCAC) finds this Draft Environmental Impact Report (DEIR) has a number of major flaws, some of which are as follows:

1. Table 2-1 (AES-1): Visual impacts to motorists traveling on Highway 101. The report states: “No Mitigation Required.” But the NCAC does not believe the gateway to the community of Nipomo and San Luis Obispo County should be an asphalt/concrete plant with towers exceeding the height of the concrete plant that already exists on the site. The DEIR claims that the proposed facility will only be visible for six seconds to motorists traveling at 65 miles per hour on Hwy 101 in either direction. In fact, the existing plant is visible for 23 seconds to northbound traffic crossing the bridge at 65 miles per hour, and is visible for four-tenths of a mile southbound. With taller towers, the plant will be visible for an even longer time frame. The idea that this is what visitors will first see when they enter the community of Nipomo and San Luis Obispo County is incongruous with the scenic highway corridor and undermines the rural atmosphere that area residents are trying hard to preserve in Nipomo.
2. Table 2-1 (AES-2): Suggests that mitigation would be necessary for motorists traveling along Highway 101 and for some residences in the area. Yet, the proposed landscape plan for fast growing trees will not obscure this Plant with the proposed towers for many years. (AES-1 and AES-2 are in conflict)
3. Table 2-1 (AES-4): According to the report, a concrete sound wall will prevent noise generated by this industrial operation from migrating off site. However, the proposed sound wall will create a visual obstruction that is conspicuous, offensive, and out of place on a scenic highway.

The report also provides conflicting data on whether residences involved in the mitigations are located 500, 1000, 1500 or 2,500 feet from the project site -- different sections of the report refer to different distances. In any case, residences to the south and north of the site will have reason for complaint and may be subjected to a variety of impacts to air quality and health, among others.

4. Noise from big trucks using engine breaks as a braking assist is very loud. Mitigation should require them to meet all the noise conditions of the Land Use Ordinance. Also, no use of engine breaks within one mile of this intersection should be permitted.
5. Table 2-1 (AES-5): The report refers to an 180,000 gallon water tank “set into the grade.” Does this mean it will be below grade? Set into the bluff? How high will it be above grade? And if set into the grade, will it have a pump to provide pressure for emergency equipment to obtain the needed fire flow in case of an emergency? What about the fact that it is located in a flood plain? What will happen to this tank in a 100-year flood?
6. Table 2-1 (ES 7): If the project site is rezoned to Industrial, the LOU/ LUE would allow a chemical manufacturing plant to be constructed on this property. Because it is located in a flood plain, we believe this should be limited and that operation of a chemical manufacturing plant (or any similar activity) on this site should be prohibited.

7. Control of dust pollution from this facility will require large amounts of water. The source of this water presumably will be the underlying ground water basin, which is in overdraft. This could have a detrimental effect on the quality of Nipomo's water as well as the availability of water to residents.
8. This facility will generate an estimated 3.02 million gallons (9.26 acre-feet) of wastewater per year. How will this wastewater be disposed of? The operations at this plant will produce a likely increase in the PH, so wastewater should not be allowed to flow off site into the Blue Line waterways, nor should it be allowed to percolate back into the ground water basin, which is the main source of drinking water for the residents of Nipomo and Santa Maria. The DEIR also indicates that there will be an onsite septic system for the restroom and other such amenities but it gives no indication of how this bio-wastewater will be disposed of.
9. Table 2-1 (AQ-2): Air Quality. The proposed industrial activities at the plant will cause the air quality in the general vicinity to become less acceptable. Depending on the amount and type of emissions generated, wind velocity and direction, and other factors, the level of emissions and subsequent degradation of air quality could be significant. Allowing this plant to be constructed in such close proximity to residences and then allowing it to pay an off site fee for mitigation of air quality is neither appropriate or an acceptable alternative for this area.

The NCAC also has concerns on the following: What is the length of time an air monitoring station will be in place? Who is responsible for monitoring? How long will county oversight be in place? All options for the required air quality mitigation projects must be identified in in the Final EIR. The mitigations must prove to be measurable and with a nexus to project.

10. Table 2-1 (A.Q.-4): Mitigation should be required to keep airborne fumes from migrating off site. Asphalt fumes and other odors produced by this plant may be highly offensive and will be a concern for residents living nearby. Such noxious fumes could become a nuisance and a health hazard if not abated.
11. Additionally, there are concerns about the long term effects that the industrial operations on this site may have on flora and fauna in the area. Why are these impacts acceptable? How are the special status species going to be protected or relocated?
12. Section 5.4.38 of the report states that "due to access constraints identified, a large portion of the LOU/LUE area which would be affected by the Land Use Ordinance amendment was not surveyed." How can a bona fide Environmental Impact Report be compiled with any meaningful degree of accuracy -- and how can necessary mitigations be identified and implemented -- if the researchers do not have permission to pass over the land in question? Looking at the land through binoculars cannot possibly provide an understanding of what must be

done to protect wildlife, plants, and water resources or to safeguard other environmental concerns that may be present on or around the site.

## **TRAFFIC ANALYSIS**

We see a major problem with increased traffic from this expanded plant, even though the DEIR suggests that the facility will not change the Level of Service (LOS), which will supposedly remain at Level C. Although the numbers given in the DEIR are inconsistent and vary quite a bit depending on which chart or paragraph you read, it is clear that there will be many net trips per day from this plant.

1. **Table 3.5** tells us that during peak production, traffic generated by the proposed facilities will include 240 outbound trips, 216 inbound trips, and 14 other trips, for a total of **470 trips**. During normal operations, this table shows there will be 53 outbound, 45 inbound, and 3 other trips for a total of **101 trips**.
2. **Table 3.6** states there will be 240 outbound production, 216 inbound aggregate, and 14 “other” for a total of 470 deliveries and 470 deliveries and 470 return trips, plus 12 incoming and 12 outgoing employee trips for a total of **964 trips per day** during peak production. In non-peak production, there would be 101 total deliveries and 101 returns, and 24 employee trips, for a total of **226 trips**.

If we use the figures for the non-peak work day, employees (or crews) will be working eight hours and, if table 3.5 is correct, then this facility will generate movement of one vehicle every **4.8 minutes** during a typical eight hour work day. For a ten-hour shift, one vehicle movement would occur every **6 minutes**. The DEIR indicates that there would be eight driving hours per shift. During peak production, assuming that crews will work for 80 days maximum at peak, that would be **16 hours of driving** (two eight hour shifts.) By extrapolating these figures, we can estimate that there will be a movement from or to this facility about every **two minutes**.

As previously mentioned, the draft EIR provides conflicting data on the number of daily vehicle trips this facility would generate. For instance, *page 42.2* states that there will be 964 movements net from the site on a daily basis, while *5-3-4* suggests that 240 asphalt trips are planned, 25 tons each, plus 226 materials trips, 25 tons each, 452 truck movements, an additional 30 truck movements for other purposes, and 24 employee trips for a total of **746 daily trips**.

*TRA-2* acknowledges that an expected 984 truck trips will have an impact on traffic. It also states that there will be a maximum of 840 one-way trips per day, averaging 202 one-way daily trips over a running twelve-month time frame. This means there will still be a vehicle movement from this facility every **4.8 minutes** during non-peak hours. One sure way to create gridlock would be to install a signal light at Hutton and Cuyama Lane.

*TRA-2* concludes that the increased traffic from the proposed plant will have no impact on the traffic Level of Service (LOS). It is hard to understand how the movement of **964, 840, 746, 470 or 226 vehicles, or even 101 daily trips** involving large, slow moving trucks will not affect the LOS. How many of these trips will go south? According to the DEIR, most of the incoming and outgoing trips will be traveling south over the Santa Maria River bridge. The DEIR also claims that the onramp meets the State of California's requirements for a freeway onramp, but if you are driving south past the onramp when a large truck is coming on to the highway, you will often see two to five vehicles trailing behind it. On a good day, these large trucks will be traveling at 35 to 45 miles per hour before they reach the southern end of the Santa Maria River bridge. The southbound onramp is 792 feet up a steep grade, and it is 3,960 feet from the entrance to the onramp to the southern end of the bridge. These slow trucks must merge with traffic moving at speeds of 70 to 75 miles per hour. This influx of large trucks often causes traffic to slow and back up; motorists caught behind the trucks will pull out and try to pass as soon as the trucks enter the freeway, exacerbating the traffic problem and causing potentially unsafe road conditions. For traffic moving in the opposite direction, the northbound freeway onramp is 1056 feet in length until you merge with freeway traffic, and additional truck traffic and daily vehicle trips generated by the proposed plant will cause an even more serious problem on Highway 101 and 166.

Mitigation for these potentially hazardous traffic conditions should include but not necessarily be limited to the construction of a longer onramp leading to the three-lane Santa Maria River bridge. Such an improvement is currently being discussed. This would allow slow-moving vehicles 3960 feet to reach optimum speeds before they merge into freeway traffic.

The DEIR states that the Plant's hours of operation will be 06:00 to 16:00 and 19:00 to 05:00 Monday through Saturday. Yet, existing traffic in this area is typically heavy on weekends because motorists use this corridor to reach Santa Barbara and other points such as Los Angeles and San Diego, while northbound traffic is for the most part business and tourist related. At present, there is no bypass to allow motorists to avoid the slow-moving truck traffic from the proposed facility.

Notably, the efficient exit routes from this area are limited. If a traffic accident or other major obstruction to circulation occurs on this stretch of road, it will cause gridlock. Similarly, in the event of a catastrophic event at the Diablo Nuclear Power Plant, the plan for evacuating Nipomo's population calls for using Thompson and/or Orchard Road to Highway 166, then south on Highway 101. A traffic jam at this intersection would be disastrous, a possibility that is not addressed in this DEIR.

There are inconsistencies in the DEIR other than the number of vehicle trips, including:

1. The distance to the dwellings -- *AQ-4* says it is .3 miles (roughly 1572 feet); on another page, we are told it is 800 feet, and elsewhere we find 1000 and 2500 feet. We do not know how far it is, but these inconsistencies must be reviewed and corrected with the real numbers.

2. The storage of hazardous materials – is the fixed LPG tank 1,000 gallons or 1,500 gallons?
3. Will the 8000 gallon portable propane tank always be on site?
4. *Page 3-21: 42* reports that an estimated 42,090 gallons of hydrocarbon liquids will be stored on the site in various forms. As previously mentioned, this site is on a flood plain. When -- not if -- the site floods, what will prevent these toxic and potentially carcinogenic liquids from washing offsite and contaminating the surrounding farmlands? In January and February, 1969, November, 1977, January, 1995, January, 1997, and on March 5, 2001, the Santa Maria River flowed bank to bank, barely clearing the bottom of the Highway 101 bridge. In January 1997, Highway 166 washed out leaving Nipomo land locked.
5. In Section 5 of the DEIR, which addresses safety concerns, no mitigation is suggested for the additional Sheriff patrols needed. In addition, there is a need for additional fire personnel. It is the proponent's responsibility to provide this additional fire protection and to do so on a 24/7 basis at the proponent's own expense. Unless these conditions are satisfied, the project should be denied. In similar developments, other counties have required developers to provide necessary public safety personnel, and to ensure that they will remain in compliance with these requirements as long as the plant remains operational, before they are allowed to start up operations.

## BIOLOGICAL MITIGATIONS

1. The biological surveys cited in the DEIR were conducted during the dry season, and species identification was not specific to the project site. This is inadequate. Surveys must be carried out during optimal seasons for botanical and wildlife identification. Several photos of wildlife on and near the proposed project site are submitted herewith.
2. The impact of light and sound on the adjacent wetland, which is a migration stop on Pacific Flyway Route, must be evaluated. Recommend on-site species survey and count of both resident and migratory birds in the fall, winter, and spring on the Lower Nipomo Creek area. Also recommend a summary of the literature of the impacts of industrial noise and light to determine potential impact to resident and migratory avian species of the Lower Nipomo Creek.
3. *The Lower Nipomo Creek Vision Plan and the Nipomo Watershed Plan* will be submitted to the California Department of Fish and Game in December 2005. The EIR should include elements of this document. This document was funded by Guadalupe Mitigation Funds because Nipomo Creek is part of the Santa



Maria River Watershed. It should be a guiding document for identifying issues and problems relevant to the project site such as flooding, creek bank erosion, water quality, and viability of nearby agriculture. Additionally, the document identifies barriers in Lower Nipomo Creek that contributed to the major flooding incident on March 5, 2001. Removal of these barriers and proper repair of the creek bank will help prevent future flooding on the project site as well as improve habitat. The watershed plan also identifies other specific potential enhancement project sites in the Lower Nipomo Creek. The Final EIR should not be complete until this document is studied with respect to evaluating both on- and off-site mitigation options.

4. Intensive industrial activity and direct construction impacts to the mixed willow habitat on the project site warrant on-site and off-site mitigation. Replacement of mixed willow habitat on the bank of the Santa Maria River adjacent to the project site will help prevent erosion, reduce flooding potential to the project site, and mitigate for industrial impacts to wildlife in the area. Additional off-site mitigation on the banks of Nipomo Creek at identified project areas in the Nipomo Watershed Plan should be included. If each project in the rezoned area is only responsible merely for on-site impacts, the cumulative impacts of the industrial zoning will not be fully addressed. Specific offsite projects that can reduce these impacts should be identified with costs assigned. A formula for contributing to such mitigation measures should be developed, and contributing to such a fund should be a condition of approval.
5. The prior practices of the project applicant relative to Nipomo Creek should be taken into account in reviewing this application. The accompanying photos shown in Appendix A provide evidence of multiple violations and sub-standard monitoring by the county and regulatory agencies

## **CONCLUSIONS**

The mere fact that this large-scale industrial facility poses a host of potential hazards to the ground water, the air quality, and to surrounding residents and businesses is ample reason that this plant should not be constructed at the gateway to Nipomo and San Luis Obispo County.

In conclusion, the authors of the DEIR did not physically inspect a majority of the area covered in the proposed General Plan Amendment. The report acknowledges a threat to Nipomo's ground water during construction, yet no mitigations are proposed, a fact that is unacceptable. Additional traffic generated by this project will only exacerbate the existing congestion, a direct result of inadequate infrastructure required to support the

fast pace of residential and commercial development in Nipomo. Storage of hazardous and potentially cancer-causing chemicals on a known flood plain, and adjacent to the Blue Line waterway of Nipomo Creek and Santa Maria River could lead to contamination of those streams and of the ground water which Nipomo residents depend on for their drinking water. People downstream from the Plant may experience adverse impacts to air quality and short-term respiratory ailments as well as more insidious long-term health concerns. Payment of an offsite mitigation fee does nothing to benefit residents who would be directly impacted by the degradation of water and air quality, nor the impacts on agriculture production downstream from the facility. The increased load on the area's already overtaxed infrastructure and additional demands on public safety with no mitigations is unacceptable and a disaster in the making. Little or no mitigation is proposed to protect plant and wildlife species inhabiting the site or which use the area.

Assuming that the above referenced inconsistencies and omissions of the DEIR were to be remedied and adequate mitigations adopted, who will monitor this facility around the clock and enforce these mitigations? The County of San Luis Obispo has admitted that they do not have the personnel to do the required monitoring.

In consideration of the fact that this DEIR fails to adequately identify or promulgate the mitigations necessary to assure the quality of our air, water and agricultural lands, the Nipomo Community Advisory Council strongly opposes this project and recommends that the proposed rezoning and construction of this facility not be allowed at the gateway to our community.

Attached:

Copy of NCAC Response to Notice of Preparation of a Draft Environmental Impact Report for Biorn Land Use Ordinance Amendment and Conditional Use Permit; ED03-344-345 (G020020M/D020293)

Respectfully Submitted,

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Bonnie Eisner,  
Vice-Chair  
Nipomo Community Advisory Council

Motion by Jim Harrison and seconded by Vince McCarthy to approve the draft document entitled NCAC Response to Bijorn Draft EIR and to adopt and ratify this document as the official NCAC position opposing the Bijorn General Plan Amendment with the following provisos: As amended-

- 1) If photographs from Herb Kandel are available and can be included before the deadline for submitting the document to the County, those photographs will be included; if not, the two references to the photographs will be deleted from the document, and
- 2) NCAC vice-chair Bonnie Eisner will be authorized to sign the document on behalf of the NCAC.

Motion passed unanimously

Motion by Rick Dean and seconded by Dan Woodson with respect to the Bijorn rezoning we are opposed to the rezoning of any additional land from Commercial/Retail and/or Residential Suburban to industrial.

Motion passed unanimously.

#### San Antonio Senior Citizens Housing Project

Motion by Rick Dean and seconded by Carol Mitchell to support the San Antonio Lane Senior apartments Project subject to

- a few more parking spaces
- common space drainage basin to be landscaped and made as usable as possible
- security precautions (lighting and camera) for elevator access

Motion passed unanimously.

#### New Business

##### Woodlands tree removal

Motion by Rick Dean and seconded by Harry Walls to approve the MUP.

Motion passed            Yes 8            No 4

##### Stafford MUP

Motion by Jim Harrison and seconded by Carol Mitchell to recommend denial of the project size waiver in compliance with the standards as set forth by the County by the supported by the secondary dwelling committee.

Motion passed            Yes 11            No 1

##### Suey Ranch Annexation (insert)

Motion by Jim Harrison and seconded by Vince McCarthy that the NCAC adopt the response by the Suey Property De-annexation committee to the BOS and Planning Department opposed to the project. Motion passed unanimously.

##### Mariani CUP

Motion by Rick Dean and seconded by El-Jay Hansson supports sending a letter from Susie Hermreck stating NCAC's concerns as set forth in the comments by land use and add that the proponent will be coming next month's meeting.

Motion passed unanimously.

##### TDC

Motion by Jim Harrison and seconded by Rick Dean that the NCAC write a letter

to join in Templeton and Santa Margarita's advisory Councils efforts to eliminate the TDC program in SLO County allowing the TDC's that are in the pipeline remain in effect. Motion passed unanimously.

Vacancies on the NCAC  
Bonnie Eisner will get newspaper coverage.

Evaluation of Mission Statement and Goals of the NCAC

#### Committee Reports

By-laws

Motion by El-Jay Hansson and seconded by Stephanie Franks to accept sections d.6, e7, f15, g17, h18, i19, and j15 as presented by the bylaws committee.

Motion passed unanimously.

Motion to accept section c4 of the proposed bylaws. Motion failed as it requires a 2/3s majority and the vote was Yes 6 No 5

Motion by Clyde Cruise and seconded by Alex Mendoza that the NCAC chair should be allowed to vote. Yes 11 No 1

GPA

West Tefft Corridor Design Plan

Adjourned 12:10 AM