Planning Commission
Regular Meeting
April 12, 2011
Martinez, CA

CALL TO ORDER
Chair Donna Allen called the meeting to order at 7:15 p.m.

ROLL CALL
PRESENT: Donna Allen, Commissioner, Harriett Burt, Commissioner, Rachael Ford, Commissioner, Jeffrey Keller, Commissioner , Paul Kelly, Commissioner, Sigrid Waggener, Commissioner, and Kimberley Glover, Commissioner.
EXCUSED: None.
ABSENT: None.

Staff present: Planning Manager Terry Blount, Senior Planner Corey Simon, Associate Planner Anjana Mepani, and City Attorney Veronica Nebb

AGENDA CHANGES
None

Planning Manager Terry Blount noted that Items 2 and 3 were informational items, but any comments or questions from the Commission would be handled as well.

PUBLIC COMMENT
Jan Moore introduced the Alhambra Hills Open Space Committee (AHOSC) to the Planning Commission, and she discussed their purpose and ways they can be contacted.

CONSENT ITEMS
None.

REGULAR ITEMS
1) *Certification of the Final Subsequent Environmental Impact Report (SEIR);*
2) *Planned Unit Development (PUD) 08-1 (amending PUDs 89-5/89-6/91-4);*
3) *Vesting Tentative Map (Subdivision 9257);*
4) *Use Permit (UP) 08-17 (construction of a water reservoir tank); and*
5) *Alhambra Highlands Development Guidelines and Design Criteria. (Continued from the March 22, 2011, meeting) Applicant: Richfield Investment Corporation (TB)*

Planning Manager Terry Blount presented the staff report, reviewing information requested at the last hearing. He also commented on view impacts and an earlier photo simulation of the view from the trestle, noting that it was incorrect. He introduced Lynette Dias from Urban Planning Partner, who explained revisions to the EIR and the Response to Comments.

Chair Donna Allen noted that there were copies of the staff report available to the public, with the information referenced by Ms. Dias.

Ms. Dias reviewed changes made to the proposal in response to input at the last meeting, including the addition of one photo simulation. She noted that one of the mitigation measures is that the houses in that view be one-story houses and have landscaping to minimize the visual impacts of the houses. She also noted that if the Commission decides to move forward with Alternative #1, some of the lot numbers will need to be adjusted.

Mr. Blount added that there was a memo on the dais, reviewing minor points of clarification to the Conditions of Approval, and copies of that are also available for the public.

Commissioner Burt asked for more information on the Section, Hillslope Hazards and Offsite Impacts, as well as the role of the GHAD (Geologic Hazard Abatement District). City Attorney Veronica Nebb noted that there was a memo in the Commission packet regarding the GHAD; she suggested that the author of the memo come forward to discuss it further.

Uri Eliahu, ENGEO Inc., reviewed the function and responsibilities of the GHAD (prevention, mitigation, abatement and control of geologic hazards), as well as funding through additional property taxes levied against affected property owners. He also noted there are requirements now that the benefit is proportional to the assessment, and that the responsibilities of the GHAD include its role as a property owner. Thus, any instability that originates on the GHAD property that may have an impact un-neighboring properties are the responsibility of the GHAD. Ultimately, he described the GHAD as a public agency whose goal is improving stability of the ground that is within its boundaries.

Mr. Eliahu responded to questions from the Commission about oversight of the GHAD, the effect of Proposition 218 on the GHAD formation and operation, setting of the assessment amount, the difference between GHAD-owned properties and those within the assessment area, exclusions to the GHAD's responsibilities, whether the GHAD would be responsible if the retaining wall along Wildcroft were to fail, how the financing is administered for daily operations and large-scale repairs, etc.

Mr. Eliahu also reviewed with the Commission the lack of City liability from any GHAD actions (except in cases where the City might have ownership), City responsibility for the water tank and improvements to Wildcroft Drive (such as the roadways and the stormdrain system in the area, but not the water system), GHAD financing issues, peer review for the project, responsibility for the infrastructure, when the GHAD will go into effect, the separation between the homeowners association (HOA) and the GHAD, and the developer's responsibility until the GHAD is established.

Staff and the Commission discussed tree removal and replacement, as now proposed and as compared to the number in the original project proposal.

<u>Public Hearing</u>
Chair Allen clarified that the public hearing on the project had already been held and closed, this hearing only relates to the proposed resolutions before the Commission now.

CAROL BYER referred to a letter she wrote related to the placement of the project high on the watershed, and experiences she has had due to development above her home. She recommended the "no project" alternative.

ELLEN VISSER asked if there was some way for the public to see the new photo simulations, and she asked if there were any from the higher elevations, such as from Briones Park. She also commented on the effect from greenhouse gas emissions and the inadequacy of the Statement of Overriding Consideration.

CHUCK SUTTON addressed issues with the Statement of Overriding Consideration, specifically the economic benefits compared to the economic impacts.

PAUL DETJENS commented on the negatives from trying to squeeze all the houses on the plateau, and he noted some of the proposed homes are on sloped lots. He also discussed the amount of fill and grading necessary, due to the slope density requirements, General Plan and Specific Plan guidelines, and the necessary findings. Mr. Detjens pointed out that the visual impacts will be greater with the reconfiguration of the lots as proposed in Alternative #1.

MARLENE HAAS said she thought it odd that this project is referred to as "infill" development, when it will be degrading the habitat and the current pristine environment. She was also concerned about declining property values, the view impacts on houses on Wildcroft Drive, and the chance of landslides. She urged the Commission to vote no and work with the land trust that wants to buy the property in question to preserve it.

PHIL STURGIS discussed his research on blue oak tree regeneration, noting it is not working as well in this region as opposed to areas next to open space, as well as the wildlife that is prevalent in oak tree areas and needs to be preserved. He also commented on John Muir's work and connection to Martinez and noted that Martinez should work to preserve his legacy.

HAL OLSEN, former member of the Alhambra Hills Specific Plan Task Force, discussed efforts to preserve the area with deliberate placement of homes and open space. He also expressed concern about the outflow from the detention basins.

MARIE OLSEN noted that the current owner of the property is a corporation in Delaware, one who is unlikely to care a bit about the impacts of this development. She also questioned whether the 25 substantial compliance issues from the first project had been adequately taken care of, as well as whether the necessary findings could be made.

TIM PLATT commented on the need for more information on the Statement of Overriding Consideration, noting that the economic information is inadequate. He noted that the tax revenues, both from sales tax and from property taxes, will probably not be as great as predicted - particularly when weighed against the costs of the project. He also noted that the City Council rolled back some of the developer fees for the project, and he thought the public needs to know those amounts also. He expressed concern that increases to the GHAD assessment have to be approved by those being assessed, which seems to be a conflict of interest; yet if the assessment is not enough to cover costs and the members do not vote an increase, how will the additional

costs be covered?

VINCE GARAMBONE expressed concern about water flowing down the hill onto Horizon Drive, and reports of flooding impacts in other jurisdictions and financial costs to those entities.

ROSEMARY WESTCOTT expressed concern about drainage, issues with the Hidden Pond development praised by Commissioner Kelly at the last Planning Commission meeting, and concerns about the developer funding the GHAD for only three years, when it will likely be ten years for full buildout.

TAMARA SCHULTZ commented on differences in Martinez over recent years, and she expressed concern about potential financial impacts for the City if there is unforeseen damage to offsite neighborhoods. She expressed doubt that this is the best project for the City to say yes to.

LIZ GARAMBONE asked where students will go to school; she was concerned about impacts on the schools. She was also concerned about the qualifications of the Planning Commission to make such an important decision, and potential conflicts of interest.

BILL NICHOLS expressed concern about adequate emergency access in case of fire. He commented on progress made in Martinez towards preserving open space, and he expressed concern that this development would be a step backwards for the City.

Rebuttal

ALICIA GUERRA addressed comments regarding the Statement of Overriding Consideration, proposed mitigation measures, the open space portion of the project (by far the largest part of the development), sustainability of the development, inclusion of the GHAD, project benefits - both to the larger community and the immediate area, and the Planning Commission's role in developing stringent design guidelines for the project.

ANDY PALFFY, DK Associates, responded to comments related to the visual simulations, grading and slope density issues.

Ms. Dias also discussed the new visual simulation, based on changes resulting from Alternative #1.

MALCOLM SPROUL, LSA Associates, discussed tree replacement issues, particularly related to regeneration of blue oak trees. He noted that there would be very few new blue oak seedlings on the site anyway if no project is built.

Seeing no further speakers, Chair Allen closed the public hearing.

Commission Comment

Chair Allen commended staff for their patience in responding to questions from the Commission and their excellent work with a very complicated project. She indicated she considers herself pro-development, but also cares about the rights of the property owner.

Chair Allen expressed concern that this project does not comply with the General Plan or the Specific Plan. She was concerned about the significant tree removal, development of areas with a greater than 30% slope, drainage, and implementation of the mitigation monitoring plan. She commented on the first Alhambra Hills Specific Plan, the subsequent review and recommendations made by the citizen review committee that led to the 1987 updated Specific Plan - she thought this project violated the intent of the 1987 Plan. She did not think the necessary findings could be made, and she reviewed the areas of the Specific Plan and General Plan she thought were violated by the proposed project. She also disagreed with the Statement of Overriding Consideration, noting this was a unique spot that deserves better treatment than that afforded by the proposal.

Chair Allen said she thought there was room on the project site for some development, and she urged the applicant to consider redesigning the plan.

Commissioner Glover said she appreciated all the input from the public; she reiterated her statements from an earlier meeting that this project has been around for a long time, and there are adequate mitigations included. She expressed support for approval.

Commissioner Burt agreed the project has been around for many years and has changed over time, noting that for a while it seemed it would not be going forward because of environmental and financial reasons. She also discussed past Council approval of the neighboring Elderwood Glen subdivision and subsequent substantial drainage/subsidence issues that were discovered after construction had begun (in spite of professional studies by qualified engineering firms and proposed mitigations) - serious problems that continue today. She also cited drainage and slide problems elsewhere in the City, in the same range of hills, with the same type of soil and the same drainage patterns as this project. She indicated she was not opposed to reasonable development where the impacts could be mitigated, but she thought this one was a gamble at best, and one the City cannot afford to take. She questioned whether the lots with greater slope would have enough buildable area, and she expressed concern as to whether the proposed mitigations could be adequately monitored, especially since staffing and funding for all levels of government is decreasing, and this project has 24 pages of mitigations - more than she has seen for any other project in all her years with the City Council and Planning Commission. She agreed with Chair Allen about the conflicts with areas of the Alhambra Hills Specific Plan, and said she could not support the project.

Vice Chair Ford said she supports the project because of the importance of private property rights. She noted that the applicant has a previous approval from an earlier Planning Commission and has done everything the City has asked and has revised the project in response to earlier issues raised; she asked each one to think how they would feel in the same situation. She acknowledged that she is not a fan of multi-national corporations, but she reminded the audience that a failure to stand up for the rights of one jeopardizes the rights of all.

Vice Chair Ford also chided one of the speakers for being disrespectful to Commissioner Kelley because of something he was wearing - she first noted that Planning Commissioners are not paid and are members of the community who serve because they care about the community and should not be mistreated because of differences of opinion. She added that she herself is ill

tonight, and she expressed frustration at the person who asked her if she was paying attention, noting she came in spite of not feeling well because it is such an important project.

Commissioner Kelly expressed support for Project Alternate #1 because he believes the project meets the requirements of the General Plan and the Specific Plan, the environmental review and mitigations are sufficient and the applicant has done what the City has asked to have done. At the same time, he expressed that if the AHOSC can reach agreement to purchase the property from the developer and keep it as open space, he would commend them for that too.

As a 4th generation Martinez native, Commissioner Keller said he appreciated the open space and the views, but he also believed in the rights of property owners. He agreed with Vice Chair Ford's comments on property owner rights also. Commissioner Keller acknowledged there were a significant amount of tree removal proposed, but noted the number has been reduced in later project iterations. He also read from the General Plan regarding allowances for lots with greater than 30% slope to sometimes be developed. He expressed support for the project, noting that the number of units proposed is less than what the General Plan would allow.

Commissioner Waggener echoed Commissioner Keller's comments, and added to his and Vice Chair Ford's statements about the rights of property owners, noting that there is a right to develop property within the guidelines set by the City, and the government cannot prevent that without good reason; as well as the right to contract. She also commented on the level of technicality and expertise addressed tonight, and she discussed CEQA standards, noting she believed the mitigations were sufficient. She expressed hope, however, that if the AHOSC is able to put forth an offer to the applicant, the applicant will at least listen to and consider their offer. She stated her support for the project also.

Chair Allen suggested additional conditions of approval, related to lots with greater than 30% slope, drainage for lots where the run-off does not drain to the proposed street. She was also concerned about drainage improvements for which the GHAD would be responsible that are across private property boundaries, that Horizon Drive will only be used for construction of Wildcroft Drive and the water tank, and following that, will only be used for emergency vehicle access, nor shall it be used for site development, a time limit for use of Horizon Drive for construction, require that a GHAD be established and recommend that the Council be the Board for the GHAD, requirements related to tree plantings, survivability, and height requirements, the landscape plan for visible homesites, grading, the pedestrian/equestrian path not allow motor vehicles, that the applicant pay all current impact fee rates, and that roads be developed to rural standards. She asked if the Commission would consider any of her recommendations.

Vice Chair Ford expressed appreciation for all of Chair Allen's efforts but said since the project is already fairly restricted, the only recommendation she could support is that the Council be the GHAD Board.

Chair Allen stated that she thought these conditions would bring the project more into compliance with the Specific Plan and the General Plan. Vice Chair Ford reiterated that she would not support any of the recommendations except the one regarding the GHAD Board. City Attorney Veronica Nebb noted that the decision regarding the makeup of the GHAD Board

would be decided by the Council, but a recommendation for the same could be included in the Planning Commission's action.

Commissioner Keller said he agreed with the GHAD Board recommendation as well as the requirement that the landscape plan be approved by Design Review, not the Planning Manager.

Commissioner Kelly said he also supported the recommendation for the City Council to be the GHAD Board; otherwise, he likes what was presented as the staff recommendation.

Mr. Blount mentioned the minor revision to the Statement of Overriding Consideration as presented at the dais. Lynette also reviewed changes to Exhibit C and Exhibit D to reflect the lot numbering in the Alternate #1 site plan.

Commissioner Burt asked where in the Commission materials the lot numbering map was, which staff explained.

Ms. Nebb suggested one more condition regarding the developer's responsibility for GHAD-type maintenance and liability issues until such time as the GHAD is formed. In response to a further question from Commissioner Kelly regarding the GHAD, Ms. Nebb explained how and when responsibility would shift from the developer to the GHAD Board, based on the Plan of Control developed when the GHAD is formed.

On motion by Commissioner Keller, seconded by Commissioner Kelly, the Planning Commission, voted to approve Resolution #PC-11-03. (Motion passed 4 – 2; Chair Allen and Commissioner Burt voted no.)

On motion by CommissionerWaggener, seconded by Commissioner Kelly, the Planning Commission, voted to approve Resolution #PC-11-04. (Motion passed 4 – 2; Chair Allen and Commissioner Burt voted no.)

On motion by CommissionerWaggener, seconded by Commissioner Keller, the Planning Commission, voted to approve Resolution #PC-11-05. (Motion passed 4 – 2; Chair Allen and Commissioner Burt voted no.)

On motion by CommissionerKeller, seconded by CommissionerGlover, the Planning Commission, voted to approve Resolution #PC-11-06. (Motion passed 4 – 2; Chair Allen and Commissioner Burt voted no.)

Commissioner Burt asked staff to explain the process for appealing the Planning Commission decision to the City Council, which Mr. Blount did.

Chair Allen asked whether this was the final decision on this item, unless it is appealed to the Council. Staff confirmed that was true.

The Commission recessed briefly and reconvened with all members present as indicated.

COMMISSION ITEMS
None.

STAFF ITEMS
2. *Wireless Telecommunications Facilities - Limits for Human Exposure to Radiofrequency (RF) Electromagnetic Fields.*

Planning Manager Terry Blount discussed the reason for the written report, and he noted that since 1996, local governments are not allowed to make decisions about the location of wireless telecommunications facilities based on RF electromagnetic emissions, provided that the applicant can demonstrate they are within the allowable limits set by the FCC. He offered to answer any questions from staff.

Commissioner Burt commented on the hard-won victory fought by the lobbyist on this issue. She also noted that the FCC ruling occurred before the proliferation of smartphones, etc.

Mr. Blount noted that bullet point #4 seems to address that issue. Commissioner Burt said there have been numerous studies done as to whether they are harmful, and they are largely inconclusive.

Mr. Blount acknowledged he had concerns about the effects personally, but he reminded everyone that there are strict federal regulations regarding what the Commission can and cannot consider when making their decision on these applications.

Chair Allen confirmed with staff and the Commission that there is no updated information regarding the effects. Commissioner Burt offered Chair Allen a copy of information from the FCC.

3. *Presentation - Downtown Infrastructure Planning and Design Study.*

Associate Planner Anjana Mepani presented the staff report, discussing the $25,000 grant awarded to the City by the Association of Bay Area Governments.

Chair Allen asked if the grant study would include an analysis of the PG&E gas lines as well. Staff said PG&E has reviewed the plan and worked with the City, but the issue of the gas lines was being studied by them. Chair Allen also asked if there was a threshold for sewer capacities. Ms. Mepani said the appendices that should be able to answer that.

Chair Allen asked if the study would be passed on to the General Plan Task Force. Ms. Mepani said it will go to ABAG next, for review and presentation. In response to a further question, she noted that the information is on the City website, available for anyone to review.

Chair Allen suggested the information be provided directly to the General Plan Task Force. Mr. Blount said it could be done.

Mr. Blount said he thought it was reassuring to know that, with few exceptions, the capacities

were all adequate for increased development downtown if applications are made in the future.

Commissioner Burt said she thought a lot of the pipes, etc. in the downtown had been replace in recent years. Commissioner Kelly responded to some of the comments regarding the downtown capacities also.

Chair Allen asked about undergrounding of utilities, which was briefly discussed.

Commissioner Burt asked about upcoming agenda items, which Mr. Blount discussed (including a possible joint meeting with the City Council regarding the Sustainable Communities Strategies).

An unidentified speaker commented on the 3-minute time limit for public speakers. He thought it was a terrible rule, especially since most are not polished, professional speakers. He also stated it was a violation of the right to freedom of speech. He asked the Commission to reconsider the rule.

Chair Allen said perhaps it could be discussed further at a later meeting.

COMMUNICATIONS
None.

On motion by Commissioner Glover, seconded by Commissioner Keller, the Commission voted unanimouslyto adjourn at 10:30 p.m., to the next Regular Meeting, April 26, 2011 at 7:00 p.m.

Respectfully Submitted,

Approved by the Planning Commission
Chairperson

Transcribed by Mary Hougey

Donna Allen