

California Native Plant Society

East Bay Chapter

P O Box 5597, Elmwood Station. Berkeley, CA 94705

May 14, 2007

Dear Mayor Dellums:

On behalf of the East Bay Chapter of the California Native Plant Society (EBCNPS), I am writing to you today to request that you review the case of a development pending action before the City's Planning Commission. The California Native Plant Society is a non-profit organization of more than 10,000 laypersons, professional botanists, and academics organized into 32 chapters throughout California. The Society's mission is to increase the understanding and appreciation of California's native plants and to preserve them in their natural habitat through scientific activities, education, and conservation.

This development would be located on one of the last remaining parcels of serpentine soil in Oakland that supports rare and endangered plant species, in particular the federally and state endangered Presidio clarkia, *Clarkia franciscana*. At least two other special status plants species are known to occur on this same site. In order to explain this unusual request for your intervention, we would like to give you something of the history of our involvement with the issue.

EBCNPS has a long history of protecting rare native plants in the Crestmont area of Oakland. Our botanists discovered the presence of many of these plants and reported their existence to the City's Planning Department decades ago, though the City did not keep track of this information, nor did it use this information as is legally required to help inform the planning process as the Crestmont area proceeded to develop. Documents recently released show a long history of the Oakland Planning Department ignoring its responsibility to protect the listed plant species. This history resulted in cumulative impacts that have never been assessed in any of the development projects despite this fundamental requirement of CEQA. The case that is pending before the Planning Commission (TPM 7940; ER 050007) is being heard on a procedural irregularity, a violation of the Sunshine Ordinance. However, this irregularity is but one instance of an overall pattern of violations of procedure that have enabled projects to move forward without authentic protection of the Presidio clarkia or other rare species.

Our chapter became involved in commenting upon this case several years ago when we were contacted by the California Department of Fish and Game (CDFG) to explore the possibility of holding a conservation easement on a portion of that property as partial mitigation. Upon the advice of our attorney, we did not agree to hold an easement but reserved any decision until the environmental impact report (EIR) was produced. This is a reasonable order of operation followed in many such projects. Our attorney made clear that to commit to offering to hold the easement in any way would undermine a thorough environmental review because, for the sake of expedience, both the developer and the Planning Department would assume *a priori* that the project was sufficiently mitigated.



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In the case of the Crestmont development the EIR was woefully inadequate, and EBCNPS declined to involve itself in any way with a conservation easement. Instead we made clear to the Planning Commission in public testimony that the EIR was inadequate. As we listened to the public discourse, it was clear that there were considerable unanswered questions about the impacts of the project including but not limited to: biological resources, geology, and air quality. The Planning Commission recommended certifying the EIR and approving the tentative parcel map anyway. This decision was appealed to the City Council. Attached is the letter that we wrote to the Mayor's Office regarding the project.

After the Planning Commission hearing, the Planning Department released critical documents that had been requested many months before by a private citizen. These documents showed the Planning Department's failure to enforce the mitigation measures that had been required on previous Crestmont developments as part of the approval. This history of inaction is entirely germane to the question of authentic mitigation of the pending development—whether the mitigations (in this case, a conservation easement) would be appropriately monitored and enforced. Since this information was never presented to the Planning Commission to help determine whether the plant populations would be protected, not just on paper, but in reality, a clear pattern of false impressions has developed.

We believe that the entire process of environmental review has been tainted and that the nature of intent of the California Environmental Quality Act has been disregarded. We respectfully request that in order to correct this series of irregularities—not just the violation of the Sunshine Ordinance, but the whole process—that the draft EIR commenting period be re-opened so that the proper documentation can be included for public review.

Thank you.

Sincerely,

Charlice Daniels
President of the East Bay Chapter
California Native Plant Society

CC:
Oakland Planning Commission
Oakland City Council
Claudia Cappio, City of Oakland
Mary Ann Showers, Department of Fish and Game



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