

Planning Commission/Board of Zoning Adjustments Appeal Form

PJR-021

To: Board of Supervisors
County of Sonoma, State of California

File # MWS 2012-004

Appeal is hereby made by: Paula Lane Action Network (501c3 nonprofit org.)
Please Print

Mailing Address: P.O. Box 2903
Petaluma, CA 94953

Phone: (707) 241-5548 Email: info@paulalaneactionnetwork.org

The Sonoma County Planning Commission / Board of Zoning Adjustments (circle one) on

November 1, 2018, approved / denied (circle one) a request by
Gardner for minor
subdivision at 245 Paula Lane in Petaluma.

located at (see above)

APN 019 - 080 - 003 Zoned AR2 RR2 Supervisorial District 2

This appeal is made pursuant to Sonoma County Code Chapter 26 Section 26-92-160 for the following specific reasons:

Inadequate environmental review under CEQA; no review or discussion of SMW correspondence or expert biological opinion of Kim Fitts. Significant negative impacts, not adequately mitigated to special status species end to the Conservation Easement and property at 431 Paula Lane.

Date: 11-8-2018 Appellant: Susan Fitts for P.L.A.N.
Signature

Appeal Fee: See current PRMD Project Review Fee Schedule

----- DO NOT WRITE BELOW THIS LINE - To Be Completed by PRMD Staff -----

This appeal was filed with the Permit and Resource Management Department on the 8th day
of November, 2018, receipt of which is hereby acknowledged.

[Signature]
PRMD Staff

Sonoma County Permit and Resource Management Department

2550 Ventura Avenue ♦ Santa Rosa, CA ♦ 95403-2829 ♦ (707) 565-1900 ♦ Fax (707) 565-1103

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Please note: Many of our friends & colleagues lost everything in the Oct. 2017 fires, we are empathetic to the County's circumstances and long term recovery.



Paula Lane Action Network (P.L.A.N.)

Open Space & Habitat Conservation...Paula Lane Nature Preserve

November 8, 2018

Permit and Resource Management Department
2550 Ventura Ave.
Santa Rosa, CA 95403

Re: APPEAL REQUEST – PLANNING COMMISSION DECISION NOVEMBER 1, 2018

245 Paula Lane Subdivision Proposal/Mitigated Negative Declaration – MNS 2012-004

To Whom It May Concern:

Please refer to the recently submitted biological opinion of Kim Fitts (10/22/2018) and correspondence with exhibits submitted by Shute, Mihaly & Weinberger (10/26/2018) on behalf of our nonprofit organization. This, with PLAN's additional correspondence, were part of the record for the proposal considered and voted upon, but not reviewed or commented upon, at all, in the November 1, 2018 hearing by Commissioners.

In the 3-minute public comment by Susan Kirks, representing PLAN, a nonprofit organization with 300 supporting members in the Bay Area, including Petaluma, and the Madrone Audubon Society, a nonprofit organization with approximately 3000 members in Sonoma County, including many in Petaluma, opposition to the proposal was expressed and clarification of mis-statements by the property owner's biologist were also provided. The Commission also received numerous letters of opposition to the subdivision proposal.

This information in the record was not discussed or even referenced at the Planning Commission hearing. Substantial evidence regarding negative environmental impacts of the proposal, the inadequacy of the environmental review process, and inconsistency with the Petaluma General Plan and the Sonoma County General Plan et al, were provided for review and consideration.

The 245 Paula Lane property is within the UGB of the City of Petaluma. Additional communication related to the City's approval or disapproval is needed.

The 245 Paula Lane subdivision proposal was approved by a Planning Commission vote with 1 dissenting vote. The Commissioner who dissented commented she could not conceive that this proposal would not have impact on the habitat. She was correct in her assessment.

Approval of this proposal, with comments by Commissioners such as the applicant being willing to participate in a design review process and being willing to plant a hedge row, was inappropriate and did not consider submitted information about the American Badger or negative impacts to the contiguous habitat and immediately adjacent property of the Paula Lane Nature Preserve.

The Paula Lane Nature Preserve is the name of the Project and overall property protected in perpetuity by a Conservation Easement, placed and held by the Sonoma County Ag and Open Space District. The property was acquired by the City of Petaluma and PLAN, Grantees, in 2012 with a grant of over \$1,000,000 in public funds. One Commissioner queried County Counsel, "Would the City have to return the million dollars?" County Counsel responded no. This was the essence of the minimal discussion, along with a question about the City of Petaluma input into the process of subdivision proposal review and the Open Space District as well. Vague

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responses were provided by the County Planner who had framed presentation of the proposal to include multiple code violations and illegal activity in construction and grading on the property, described as activity, as if this was “business as usual” as PRMD, with permits then subsequently issued. The inference was the City of Petaluma and Open Space District had no additional input. Because of the issues involved and substantial correspondence submitted to the Commission, responsible Commissioners should have requested the Planner return to both the City of Petaluma and the Open Space District to obtain clarification and input, given the serious nature of the identified negative impacts.

PLAN’s correspondence clearly stated the Open Space District does not comment on proposals such as the one before the Commission; however, PLAN’s correspondence clearly delineated the pathway toward a conservation easement application to the District existed, instead of proceeding with the attempt to develop on the 245 Paula Lane property. This was never referenced, nor discussed.

Such a discussion would also directly relate to the inadequacy of the environmental review for the project and the resultant mitigated negative declaration.

Approval of this proposal, should it go forward, would negate the Conservation Easement on the Paula Lane Nature Preserve Property. This is directly related to the reason the over \$1,000,000 grant was provided to acquire and conserve this property. This is a serious issue, and the negative impacts to the Paula Lane Nature Preserve property were not even minimally reviewed and certainly not adequately considered.

Jokes made by two Commissioners with the biologist representing the property owner about a cat and fox were also inappropriate and dismissive related to the serious nature of the proposal before the Commission for review.

The 245 Paula owner’s biologist endeavored to communicate to the Commission that wildlife corridors must be carefully considered with many criteria to identify the “patches” of land or habitat that are connected for wildlife movement.

Relevant to this appeal request and the discussion on November 1, the biologist’s comments about the wildlife corridor were based on her apparent observation of the 245 Paula Lane property and the area, with claims of a nearby heavily traveled street, possibly dangerous for wildlife movement, nearby residential development and night lighting. She concluded in the report as well as in the hearing that there just was no wildlife corridor evident related to 245 Paula Lane.

In fact, the 245 Paula Lane property is centrally located in a heavily traversed wildlife corridor in West Petaluma. This corridor connects to 2 additional corridors extending to the Marin and Sonoma coasts, all three of which are relevant for American Badger and other species. Recently, an additional Matching Grant was recommended for a property south of Paula Lane, to be conserved, and this land will protect an additional component of the wildlife corridor, connecting that land to the Paula Lane area, including the 245 Paula and the 431 Paula Lane properties (latter open space). That was a sustained effort for almost 15 years. The Paula Lane conservation effort was the result of 12 years of diligent perseverance to ensure conservation of important, sensitive, longstanding habitat and protection of property within the wildlife corridor.

The biologist for the 245 Paula owner also commented “three biologists” walked around, looking for a female badger area or dens and they just could not find any. In the 3 minute comment allowed for Naturalist Susan Kirks who was representing Paula Lane Action Network and Madrone Audubon Society, clarified the existence of a natal territory on the 245 Paula property and the adjacent conserved open space property.

The applicant also made several comments during the rather informally conducted hearing process, including, “I don’t even think there are any PLAN members on Paula Lane.” Also, “We couldn’t even cut our grass without the County being called.” In addition, the applicant submitted additional information in an effort to portray Susan Kirks as a “stalker” and on a “personal mission” against them. Factual information has been submitted to the public record for clarification about any interaction with the 245 Paula owners. The issue here is not about an attempt to portray Susan Kirks negatively or otherwise. The issue is intense attempted, intentional habitat destruction on a property with longstanding, documented, sensitive habitat, as well as a subdivision proposal that would permanently harm what remains of the habitat on the 245 Paula Lane property and negate the Conservation Easement of the Paula Lane Nature Preserve open space property. The 2012 correspondence from Regional Manager Wilson of the CA Department of Fish and Wildlife also did not result in sufficiently following the Department’s discussion and requests related to the sensitive habitat, American Badger and Burrowing Owl.

The issue to be considered related to the Open Space District, also, is not about “giving back a million dollars” to the District. The issue relates to ensuring protection of conservation values protected by the Conservation Easement on the Paula Lane Nature Preserve open space property and, in addition, that requirements of the Matching Grant Agreement are able to be fulfilled and sustained - public access, education and volunteering, a carefully planned and implemented project, with wildlife protective and wildlife friendly features.

The Board of Directors of the Sonoma County Ag and Open Space District will need to issue a statement of negating the Conservation Easement and loss of the over \$1,000,000 investment in the Paula Lane Nature Preserve property, with approval of this proposal for development, and as such, this will establish a negative precedent in Sonoma County related to investment of open space sales tax dollars and requiring terms of Conservation Easements be upheld. When there is an alternative that would provide benefits to the 245 Paula owners as well as ensure the public funds investment is protected and no further habitat destruction occurs, with protection of the existing open space Conservation Easement – and such an alternative does exist – this should be discussed, considered, and reviewed.

The severe negative impacts of the 245 Paula Lane subdivision proposal, regardless of whether it is 1 lot, 2 lots, or 50 lots, also must be considered in the context of CEQA and actual impacts that would occur from the proposal.

The 245 Paula owner casually commented during the hearing, from her seat, she saw birds all the time and there are so many birds on the 245 Paula property. This does not constitute a biological resource assessment. In addition, the 245 Paula owner’s biologist who presented information to the Planning Commission, including the repeated comment of how she couldn’t locate a CNDDDB entry for any adult female badger or natal territory (therefore, it must not exist) - conducted an inadequate assessment, which is addressed in the expert mammal biologist’s response and opinion – submitted for the public record and never mentioned or discussed by the Commission. Biologist Fitts conducted the habitat survey of both 431 Paula and 245 Paula in 2004 and has periodically monitored the area and properties for several years. The Naturalist, Susan Kirks, with 19 years of direct field study and observation of American Badger, including these 2 properties, also possesses expertise the owner’s biologist does not possess.

This appeal is filed by Paula Lane Action Network. Within 72 hours, the \$1,174 appeal fee was raised from nonprofit supporters, 5 of whom live in the immediate area of the 245 Paula Lane property.

Lastly, a dismissive comment about letters that had been received opposing the subdivision proposal from several apartment dwellers of the Price Drive Apartments, from the dais, did not go unnoticed. The comment was made with a tone as if these were just letters from the apartment residents, inferring these comments somehow carried

PRMD, Nov. 8, 2018, P. 4

less meaning or significance. Those who live at the Price Drive Apartments are directly already impacted by the 245 Paula owners' activities and would be further seriously negatively impacted by the additional habitat destruction and development proposal. The two property owners most seriously impacted by the 245 Paula Lane subdivision proposal are the Price Drive Apartments west of the 245 Paula Lane property (strong opposition to the proposal) and the Paula Lane Nature Preserve open space property immediately to the north.

During the hearing, a question was raised, with no answer given, regarding American Badger activity south of the 245 Paula Lane property. Be advised that historically, year-round, the habitat and corridor within which the 245 Paula Lane property exists, badger activity of foraging and burrowing occurs on the properties south of the 245 Paula Lane property, observed and documented over several years' time, to Bodega Avenue. The corridor continues south of Bodega over to Cleveland Lane and area, and to the Kelly Creek Property just east of Helen Putnam Regional Park, which is now being funded and conserved.

An appeal hearing is requested to further consider significant negative environmental impacts of the 245 Paula Lane subdivision proposal, the inadequate environmental review, the inconsistency with the Petaluma General Plan and Sonoma County General Plan et al, and the resultant negating of a public funds investment and Conservation Easement protecting sensitive conservation values on the Paula Lane Nature Preserve open space property.

Sincerely,

Susan Kirks

Susan Kirks, Chair, Board of Directors
Naturalist – American Badger
Paula Lane Action Network

Enc.: Appeal Form, Check for Appeal Fee

Paula Lane Action Network (P.L.A.N.), P.O. Box 2903, Petaluma, CA 94953 /
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COUNTY OF SONOMA
PERMIT AND RESOURCE MANAGEMENT DEPARTMENT

2550 Ventura Avenue, Santa Rosa, CA 95403-2829
(707) 565-1900 FAX (707) 565-1103

Application Fees / Invoice # 337941 on 11/08/2018 for: MNS12-0004

Site Address: 245 PAULA LN Petaluma [PET]

Activity Type: Minor Subdivision

APN: 019-080-003

Initialized By: MGROSCH

Fire District: Wilmar VFC

Insp Area:

Valuation: \$0.00

Ag/Comm/Res:

Description: MINOR SUBDIVISION CREATING TWO LOTS

REQUEST FOR A MINOR SUBDIVISION OF 6.06 ACRES RESULTING IN TWO LOTS OF 1.53 ACRES IN SIZE EACH AND A DESIGNATED REMAINDER OF 3.0 ACRES.

PETITION PURSUANT TO CODE SECTION 25-43 TO INCREASE LENGTH TO WIDTH RATIO LIMITATION REQUIRED PER SECTION 25-42(B).

11/8/2018: Appeal received of Planning Commission decision 11/1/2018

Owner:

Applicant: GARDNER KIM
245 PAULA LANE
PETALUMA, CA 94952
415 637 6456

Fee Item	Description	Account Code	Total Fee
1011-000	Appeal	26010121-45061-10005	\$1,164.00
Invoiced Fees:			\$1,164.00
Total Paid:			\$33,807.40
Project Balance Due:			\$3,783.50

When validated below, this is your receipt



Refunds of fees paid may be made pursuant to Section 108.6 of Appendix 1 of the California Building Code and adopted model codes, subject to the following:

- 1) 100% of a fee erroneously paid or collected.
- 2) 90% of the plan review fee when an application for a permit is withdrawn or cancelled or expires or becomes void before any plan review effort has been expended. No portion of the plan review fee shall be refunded when any plan review effort has been expended.
- 3) 90% of the building, plumbing, electrical, and/or mechanical fee may be refunded when a permit is withdrawn, or cancelled or expires or becomes void before any work was done and before any inspections are performed. No portion of these fees shall be refunded when any work was done and/or any inspections have been performed.
- 4) Application for refund must be made within one year.