

**SANTA BARBARA COUNTY PLANNING COMMISSION**  
**Staff Report Rose/Cal-Orchid Greenhouses Development Plan**

**Hearing Date:** April 25, 2007

**Staff Report Date:** April 6, 2007

**Case No.:** 05DVP-00000-00022

**Environmental Document:** 07NGD-00000-00001

**Assistant Director:** Dianne Black

**Division:** Development Review

**Staff Contact:** Alex Tuttle

**Supervising Planner:** Anne Almy

**Planner's Phone #:** 884-6844

**OWNER/APPLICANT:**

James & Lauris Rose  
1251 Orchid Drive  
Santa Barbara, CA 93111  
(805) 967-1312

**AGENT:**

Raymond Appleton  
Permit Planners  
1482 East Valley Rd. #253  
Santa Barbara, CA 93108  
(805) 895-1414



This site is identified as Assessor Parcel Number 065-290-026, south of Patterson Avenue and west of More Mesa, at 1251 Orchid Drive in the Goleta area, Second Supervisorial District.

Application Complete: October 3, 2006  
Processing Deadline: 60 days from approval of ND

## 1.0 REQUEST

Hearing on the request of Raymond Appleton, agent for the owners James and Lauris Rose, to consider Case No. 05DVP-00000-00022, [application filed on July 25, 2005] for approval of a Development Plan in compliance with Section 35-174 of the Article II Coastal Zoning Ordinance, on property zoned AG-I-10, to permit and legalize approximately 39,000 square feet of existing unpermitted greenhouse and shade house structures; and to approve the Negative Declaration (07NGD-00000-00001) pursuant to the State Guidelines for Implementation of the California Environmental Quality Act. As a result of this project, significant but mitigable effects on the environment are anticipated in the following categories: Water Resources. The ND and all documents may be reviewed at the Planning and Development Department, 123 E. Anapamu St., Santa Barbara. The ND is also available for review at the Central Branch of the City of Santa Barbara Library, 40 E. Anapamu St., Santa Barbara. The application involves AP No. 065-290-026, located at 1251 Orchid Drive, in the Goleta area, Second Supervisorial District.

## **2.0 RECOMMENDATION AND PROCEDURES**

Follow the procedures outlined below and conditionally approve Case No. 05DVP-00000-00022 marked "Officially Accepted, County of Santa Barbara April 25, 2007 County Planning Commission Exhibit 1", based upon the project's consistency with the Comprehensive Plan, including the Goleta Community Plan and Coastal Land Use Plan, and based on the ability to make the required findings.

Your Commission's motion should include the following:

1. Adopt the required findings for the project specified in Attachment A of this staff report, including CEQA findings.
2. Approve the Negative Declaration (07NGD-00000-00001) included as Attachment B and adopt the mitigation monitoring program contained in the conditions of approval.
3. Approve the project subject to the conditions included as Attachment C.

Refer back to staff if the County Planning Commission takes other than the recommended action for appropriate findings and conditions.

## **3.0 JURISDICTION**

This project is being considered by the County Planning Commission based on Section 35-174.2 *Applicability* of the Article II Coastal Zoning Ordinance, which states:

*All Development Plans outside the jurisdiction of the Director or the Zoning Administrator shall be within the jurisdiction of the Planning Commission.*

## **4.0 ISSUE SUMMARY**

The purpose of this Development Plan application is to permit and legalize approximately 39,000 square feet of existing greenhouses and shade structures, as well as a 405 square foot gazebo, all of which were built without the benefits of permits. Portions of the unpermitted development encroach into setbacks, requiring modifications to authorize the encroachments as part of the Development Plan. The greenhouse operation has been active for over half a century, with the size of the facility growing over time. The shade structures represent the most recent addition, which were installed around 1990. The unpermitted greenhouses and shade structures replaced an avocado orchard, the remnants of which still exist on the property. Existing permitted structures on site include a 1,240 square foot office/residence, a 10,800 square foot greenhouse, and 617 square feet of storage structures.

Approval of the Development Plan would ensure that all structures on the property are legal and permitted and would allow the applicants to continue to operate their long-standing orchid operation and preserve this property in agriculture consistent with the goals and policies of the Goleta Community Plan.

## 5.0 PROJECT INFORMATION

### 5.1 Site Information

| <b>2.1 Site Information</b>    |   |
|--------------------------------|---|
| Comprehensive Plan Designation | Coastal Zone, Urban, Goleta Community Plan, A-I-10, one unit per 10 acres maximum density                           |
| Zoning District, Ordinance     | Article II, AG-I-10, 10 acre minimum lot size   |
| Site Size                      | 2.33 acres gross and net  |
| Present Use & Development      | Wholesale orchid production, greenhouses and shade structures   |
| Surrounding Uses/Zoning        | North: Residential, 20-R-1<br>South: Residential, 20-R-1<br>East: Residential, 20-R-1<br>West: Agriculture, AG-I-10 |
| Access                         | Orchid Drive, 24-foot wide private roadway easement   |
| Public Services                | Water Supply: Goleta Water District<br>Sewage: Private septic system<br>Fire: Santa Barbara County Fire Department  |

### 5.2 Setting

The project site is generally flat with minimal topographic variation. There is a high point in the center of the property with a mild downward sloping trend to the northwest and southwest of the parcel. Fauna present on the site consists of common urban wildlife (e.g. raccoons, skunks, squirrels, etc.). Vegetation on the project site consists primarily of mature avocado trees and non-native landscaping. One mature coast live oak tree is located on site. No known archaeological sites are located on the project site, although archaeological resources have been identified in the vicinity of the subject parcel. No surface water bodies are located within the project boundaries. Soils on the site consist of Baywood Loamy Sand, which are considered prime soils if irrigated. Surrounding land uses include single family residential to the north, south and east, and commercial greenhouse/shadehouse agriculture to the west; there are several other nurseries and greenhouse operations in the vicinity. The project site is contiguous with other agricultural land to the west of the project site and is thus considered part of the South Patterson Agricultural area, a 300-acre plus contiguous block of agricultural land within the urban area of Goleta identified for long-term protection in the Goleta Community Plan. Existing permitted structures on the site include a greenhouse, office/residence, a packing/shipping area, and storage sheds.

### 5.3 Description

The applicants are requesting approval of a Development Plan to permit and legalize 39,079 square feet of greenhouses and shade house structures and a 405 square foot roofed gazebo, all of which were previously constructed without the benefit of permits. As part of the proposal, the applicants are requesting a modification to the rear yard setback to allow encroachment of the previously constructed greenhouse and shade house facilities by up to approximately five feet four inches from the property line at their closest point. Additionally, the applicants are requesting a modification to the front yard setback to allow encroachment of an existing trash enclosure into the front yard by up to 35 feet from the property line and small portions of two of the required five parking spaces. In order to satisfy County Fire Department emergency access requirements, the applicant has proposed an all-weather hammerhead turnaround at the entrance to the project site that meets County Fire Department dimension standards. Also included in the project is the demarcation of a handicapped parking space as well as remodeling of the existing permitted residence/office to ensure compliance with ADA accessibility requirements.

#### **5.4 Background Information**

The subject parcel was created as Parcel A of Parcel Map No. 11082, as shown on the map filed in Book 6, Page 58 of Parcel Maps. This map was certified by the County Surveyor on March 12, 1970. Existing permitted structures on site include a 1,240 square foot office/residence, a 10,800 square foot greenhouse, and 617 square feet of storage structures. These structures were permitted in 1962. The unpermitted greenhouses were constructed between 1962 and 1972, prior to ownership of the property by the Roses. The unpermitted shade structures were constructed between 1989 and 1990, whereas the unpermitted gazebo was constructed in 2001. A Zoning Violation case was opened for the subject property in November 14, 2001 upon a complaint of unpermitted development. It was subsequently determined that approximately 39,079 square feet of greenhouse and shade structures, along with a 405 square foot gazebo, were built without the benefits of required permits. During the processing of the zoning violation (Case No. 01ZEV-00000-00368) it was agreed that the applicants would apply for a Development Plan in order to remedy the situation, since the amount of development exceeded 20,000 square feet. Arrangements were made with the applicants to submit a Development Plan application, which they eventually did in 2005. Approval of the Development Plan and follow up Coastal Development Permits and Building Permits will serve to legalize and permit the existing unpermitted structures.

## **6.0 PROJECT ANALYSIS**

### **6.1 Environmental Review**

A Negative Declaration (07NGD-00000-00001) was prepared for the project to analyze potential environmental impacts associated with installation of the unpermitted structures. The Negative Declaration identified no significant impacts which could not be feasibly mitigated. The Negative Declaration did identify potentially significant but mitigable impacts with respect to surface water runoff and water quality resulting from the increase in impervious surfaces associated with the greenhouse and paving at the project site entrance to meet emergency access requirements. Mitigation has been incorporated as conditions of project approval to reduce the water quality impacts. The Negative Declaration (Attachment B) determined that the project

would result in either no impact or an adverse but less than significant impact (for which no mitigation is required) for all other issue areas.

The expanded greenhouses and shade structures have minimal impact on the intensity of use of the site or the impacts of the orchid operation on its neighbors. Since the operation is a wholesale business, impacts often associated with a commercial operation such as visitor traffic, increased employee needs, noise, etc., do not occur. As it is, the expanded greenhouses and shade structures only result in one additional employee relative to what would otherwise be needed (for a total of five employees), and the number and frequency of truck deliveries and pick-ups remain the same (though the volume in each of the deliveries and pick-ups is greater). The greenhouse operation is well screened from its neighbors by mature landscaping and trees, and the nature of the operation (involving manual labor rather than mechanical equipment and contained, directed application of agricultural chemicals and irrigation) results in minimal disturbances to neighboring residences.

## 6.2 Comprehensive Plan Consistency

| REQUIREMENT   | DISCUSSION  |
|---|---|
| <p><b>Coastal Plan Policy 2-6:</b> Prior to issuance of a development permit, the County shall make the finding, based on information provided by environmental documents, staff analysis, and the applicant, that adequate public or private services and resources (i.e., water, sewer, roads, etc.) are available to serve the proposed development.</p>       | <p><b>Consistent:</b> Adequate public and private services are available to serve the proposed project. The project would continue to be served by the Goleta Water District and the existing private septic system is adequate and serviceable. Access roads and drives to the site meet current standards and the applicant proposes to install an all-weather hammerhead turnaround within the project site to accommodate emergency vehicles access requirements. This turnaround has been reviewed and approved by the County Fire Department.</p> |
| <p><b>Policy LUA-GV-1:</b> Land designated for agriculture within the urban boundary shall be preserved for agricultural use, unless the County makes findings that the land is no longer appropriate for agriculture or there is an overriding public need for conversion to other uses for which there is no other land available in the Goleta urban area.</p> | <p><b>Consistent:</b> The proposed project would enhance the existing agricultural operation on the premises by validating the expanded space available to propagate orchids for wholesale distribution.</p>  |
| <p><b>Policy FIRE-GV-2:</b> All private roads which serve structures served by the Fire Department shall be constructed to Fire Department standards unless the Fire Department waives the standard.</p>  | <p><b>Consistent:</b> In order to meet the emergency access requirements established by the County Fire Department, the application proposes to develop an all-weather hammerhead turnaround at the entrance to the project site.</p>   |

| REQUIREMENT  | DISCUSSION   |
|--|--|
| <p><b>Policy FIRE-GV-4:</b> Emergency access shall be a consideration in the siting and design of all new development.</p>   | <p>The turnaround meets the dimensions and specifications of the County Fire Department, which has reviewed and approved the design.</p>   |
| <p><b>Goal CIRC-GV-1:</b> The County Shall Allow Reasonable Development of Parcels Within the Community of Goleta Based Upon the Policies and Land Use Designations Adopted in this Community Plan, While Maintaining Safe Roadways and Intersections.</p>   | <p><b>Consistent:</b> The proposed project is consistent with the A-I land use designation applied to the property. Intensified use of the property associated with the expanded orchid operation would not degrade area roadways and intersections.</p>   |
| <p><b>Policy WAT-GV-1:</b> For discretionary projects which would result in a net increase in water use, there shall be a sufficient supply of water to serve known existing commitments plus the proposed project. This policy shall be implemented consistent with the direction of policy WAT-GV-2.</p> | <p><b>Consistent:</b> The proposed project would not result in a significant change in water use relative to the existing setting. The project is served by the Goleta Water District and there is sufficient supply to serve the proposed project.</p>  |
| <p><b>Policy AQ-GV-1:</b> The County shall impose appropriate restrictions and control measures upon construction activities associated with each future development project, in order to avoid significant deterioration of air quality.</p>  | <p><b>Consistent:</b> Development of the turnaround would not require significant ground disturbance or mechanical equipment that could result in the significant deterioration of air quality. Standard dust control measures have been incorporated into the conditions of project approval to minimize dust generation and ensure consistency with this policy.</p>   |
| <p><b>Policy BIO-GV-1:</b> The County shall designate and provide protection to important or sensitive environmental resources and habitats in the Goleta Planning Area.</p>   | <p><b>Consistent:</b> No important or sensitive environmental resources and habitats exist on the project site. The site has been under various forms of agriculture for over half a century and is currently occupied by agricultural support structures, non-native landscaping, and a remnant avocado orchard.</p>  |
| <p><b>Policy BIO-GV-17:</b> Oak trees shall be protected to the maximum extent feasible. All land use development applications shall be processed in such a manner as to avoid damage to native oak trees. Regeneration of oak trees shall be encouraged.</p>  | <p><b>Consistent:</b> There is one mature coast live oak tree located on the premises at the edge of the driveway/parking area. A portion of one of the unpermitted greenhouses encroaches into the critical root zone of the tree. However, installation of the greenhouse does not require significant trenching or ground disturbance that would impact the oak tree and there is no evidence of the tree being impacted by the presence of the greenhouse. Additionally, the orchid operation does not use excessive</p> |

| REQUIREMENT  | DISCUSSION   |
|--|--|
|  | irrigation that could create ponding and cause damage to the oak tree's roots. Therefore, it is not anticipated that the project would damage the oak tree.  |
| <b>Policy BIO-GV-19:</b> Pollution of streams, sloughs, drainage channels, underground water basins, estuaries, the ocean and areas adjacent to such waters shall be minimized.  | <b>Consistent:</b> The orchid operation does not result in significant surface runoff that could pollute nearby waterbodies. The project, as conditioned, would minimize water pollution during both construction of the turnaround and parking area and ongoing operation of the orchid operation.  |
| <b>Policy RISK-GV-1:</b> Safety measures shall be required as part of project review to minimize the potential for risk of upset and public safety impacts within the Goleta Community Planning area.  | <b>Consistent:</b> The existing and proposed orchid operation must comply with handling, application, and storage requirements for pesticides and other agricultural chemicals established and enforced by the Agricultural Commissioner's Office. To date, the applicants have been in compliance with all such requirements. Continued compliance with these requirements would ensure that the potential for risk of upset and public safety impacts are minimized. |
| <b>Policy VIS-GV-4:</b> All new greenhouse development in excess of 2,500 square feet which is visible from a major public roadway or other area of public use (e.g., bike path) shall be sited and designed to minimize visual impacts from these viewing places. The provision of increased setbacks and landscape buffers shall be considered for new greenhouse development. | <b>Consistent:</b> The project site is not visible from a major public roadway or other area of public use. The project site is located at the end of a private driveway. Nonetheless, much of the project site is screened by existing mature landscaping, such that adverse visual impacts from the existing and proposed greenhouse structures are minimized.   |

## 6.3 Zoning: Article II

### 6.3.1 Compliance with Article II, Coastal Zoning Ordinance

The proposed project is consistent with Article II in terms of permitted uses, building height and parking requirements. However, modifications to the front and rear yard setbacks are required to accommodate the existing unpermitted structures, thus avoiding the need to remove or reconfigure any of the structures on the project site to the detriment of the existing orchid operation.

The standard rear yard setback for this property is 20 feet. The applicants are requesting a modification to this setback standard to allow portions of the unpermitted greenhouse and

shadehouse structures to encroach into the setback at distances varying from 6 feet 10 inches to 14 feet 7 inches along the western property line. With the setback modification the structures would be approximately 5 feet 5 inches from the property line at the closest point. There is another nursery operation located immediately west of the subject property such that an encroachment of these structures into the setback would not have any impacts on adjacent neighbors.

The applicant is also requesting a modification of the front yard setback to allow an existing trash enclosure to encroach up to 12 feet into the setback area, such that it would still be over 30 feet from the property line. The trash enclosure is screened from most views by mature landscaping from Orchid Drive so encroachment into the front setback would not result in any visual impacts to neighboring residents.

Lastly, the applicant is requesting a modification to allow small portions of two of the required five parking spaces to encroach approximately four feet into the front yard setback area. This setback modification is justified to avoid having to relocate or remove any of the existing unpermitted structures and would not cause any impacts to adjacent residents. Additionally, the encroachment would not effect the safe turning movements of parked vehicles.

#### **6.4 Subdivision/Development Review Committee**

The project was reviewed by the Subdivision/Development Review Committee on August 11, 2005. The committee commented on the need to revise the plans to provide a County Fire Department approved turnaround as well as handicap accessibility requirements to the onsite office. The applicants redesigned the project to address these comments. In addition, the committee identified development impact mitigation fees that must be paid as a result of the project.

#### **6.5 Design Review**

The project received conceptual review by the South County BAR on September 9, 2005. The BAR had favorable comments on the project and directed the applicants to come back for preliminary/final approval after receiving approval by the Planning Commission.

#### **6.6 Development Impact Mitigation Fees**

A series of ordinances and resolutions adopted by the County Board of Supervisors require the payment various development impact mitigation fees. This project is subject to the fees as shown in the following table. The amounts shown are estimates only. The actual amounts will be calculated in accordance with the fee resolutions in effect when the fees are paid.

The developer of a project that is required to pay development impact mitigation fees may appeal to the Board of Supervisors for a reduction, adjustment or waiver of any of those fees based on the absence of a reasonable relationship between the impacts of the proposed project and the fee category for which fees have been assessed. The appeal must be in writing and must state the factual basis on which the particular fee or fees should be reduced, adjusted or waived. The appeal must be submitted to the director(s) of the relevant departments within 15 calendar days

following the determination of the fee amount(s). For a discretionary project, the date of determination of fee amounts is the date on which the decision-maker adopts the conditions of approval and approves the project.

| <b>Estimated Goleta Development Plan Impact Mitigation Fees</b>           |   |                      |  |
|---|---|----------------------|--|
| <b>Fee Program</b>  | <b>Base Fee (per unit or 1,000 sf)</b>                  | <b>Estimated Fee</b> | <b>Fee due at</b>  |
| Recreation (Parks)<br>Quimby<br>Develop. Mitigation<br>Comm. & Industrial | N/A (greenhouses exempt)                                | N/A                  | LUP or Map Recordation<br>Final Inspection<br>Final Inspection |
| Transportation  | None (no increase in PHTs<br>relative to open-field ag) | N/A                  | LUP or Map Recordation   |
| Fire<br>Countywide (\$0.20/sf)<br>Goleta Area                             | \$.20/sf<br>N/A (greenhouses exempt)                    | \$3,729<br>N/A       | Final Inspection<br>Final Inspection                           |
| Library   | N/A (greenhouses exempt)                                | N/A                  | Final Inspection   |
| Public Administration   | N/A (greenhouses exempt)                                | N/A                  | Final Inspection   |
| Sheriff   | N/A (greenhouses exempt)                                | N/A                  | Final Inspection   |

## **7.0 APPEALS PROCEDURE**

The action of the Planning Commission may be appealed to the Board of Supervisors within ten (10) calendar days of said action. Section 35-182.3.1 provides, “For developments which are appealable to the Coastal Commission under Section 35-182.4.2, no appeal fee will be charged.

## **ATTACHMENTS**

- A. Findings
- B. Negative Declaration (07NGD-00000-00001) with Transmittal Letter
- C. Conditions of Approval with attached Departmental letters
- D. Site Plan

## ATTACHMENT A: FINDINGS

### 1. CEQA FINDINGS

- 1.1 The Planning Commission has considered the Negative Declaration (07NGD-00000-00001) together with the comments received and considered during the public review process. The negative declaration reflects the independent judgment of the Commission and has been completed in compliance with CEQA, and is adequate for this proposal.
- 1.2 The Planning Commission finds that through feasible conditions placed upon the project, the significant impacts on the environment have been eliminated or substantially mitigated.
- 1.3 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Secretary of the Santa Barbara County Planning Commission, Dianne Black, Planning and Development, located at 123 E. Anapamu St., Santa Barbara, CA 93101.
- 1.4 Public Resources Code Section 21081.6. requires the County to adopt a reporting or monitoring program for the changes to the project which it has adopted or made a condition of approval in order to mitigate or avoid significant effects on the environment. The approved project description and conditions of approval, with their corresponding permit monitoring requirements, are hereby adopted as the monitoring program for this project. The monitoring program is designed to ensure compliance during project implementation

### 2. DEVELOPMENT PLAN FINDINGS

Pursuant to Section 35-174.7.1, a Development Plan shall only be approved if all of the following findings are made:

- 2.1 **That the site for the subject project is adequate in terms of location, physical characteristics, shape, and size to accommodate the density and intensity of development proposed.**

The project site is adequate to accommodate the density and intensity of development proposed. The project site is located adjacent to other agricultural operations and represents the southeastern corner of the South Patterson Agricultural Area, a 300-acre plus block of contiguous agricultural land identified for long term protection in the Goleta Community Plan. The project site is flat and of sufficient size and regular shape to accommodate the additional 39,000 square feet of greenhouses and shade structures without creating a deleterious impact on the surrounding neighborhood. Therefore, this finding can be made.

**2.2 That adverse impacts are mitigated to the maximum extent feasible.**

The Negative Declaration prepared for the project, 07NGD-00000-00001, as referenced herein, identified one impact to water quality for which mitigation was required in order to reduce the impact to a less than significant level. Implementation of this mitigation measure will ensure that the impact is mitigated to the maximum extent feasible. All other impacts of the project are considered less than significant and no mitigation is required. Therefore, this finding can be made.

**2.3 That streets and highways will be adequate and properly designed to carry the type and quantity of traffic generated by the proposed use.**

Streets and highways are adequate to serve the project and properly designed. The project would result in a very minor increase in daily traffic such that no upgrades to area streets or highways are necessary as a result of the project. Therefore, this finding can be made.

**2.4 That there are adequate public services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the subject project.**

This existing orchid operation is adequately served by public services, including fire and police protection, and water supply. Sewage disposal is provided by an on-site private septic system that is adequate and serviceable. The expansion of the orchid operation would not create a significant increase in the demand for these services and the project would continue to be adequately served. As part of the project, the applicants would be installing an all weather hammerhead turnaround at the entrance to the site in order to ensure adequate access into the site for emergency purposes. The turnaround has been reviewed and approved by the County Fire Department. Therefore, there will be adequate public services to serve the project and this finding can be made.

**2.5 That the subject project will not be detrimental to the comfort, convenience, general welfare, health, and safety of the neighborhood and will not be incompatible with the surrounding areas.**

The project will not be detrimental to the comfort, convenience, general welfare, health, and safety of the neighborhood and will not be incompatible with the surrounding areas. The project site has a land use designation of A-I (Agriculture) and has been in various types of active agricultural for over half a century. The project site is located on the southeastern corner of the South Patterson Agricultural area, which is a contiguous block of agricultural land in the urban area of Goleta identified for protection in the Goleta Community Plan. The orchid operation has been active at the project site for several decades and has operated in harmony with adjacent agriculture to the west and residential to the north, south, and east. The project would result in an expansion of the orchid operation, but the impacts to the neighborhood would remain the same. There would be no significant changes in traffic to or from the site as the number and frequency of deliveries and pick-ups would remain the same and the expansion would only result in one additional employee. The orchid operation does not generate noise, odor, or dust that would impact the neighborhood and the property is well screened by existing mature

vegetation, such that the greenhouses do not create a visual eyesore to the surrounding residences. As conditioned, noise generated by construction of the hammerhead turnaround would be restricted to daytime hours during the week to reduce short-term noise impacts. For these reasons, this finding can be made.

**2.6 The proposed project is in conformance with the applicable provisions of Article II and the Coastal Land Use Plan.**

As discussed in Section 6 of the staff report, and hereby incorporated by reference, the project is consistent with the applicable policies of the Coastal Land Use Plan, as well as applicable provisions of Article II with the exception of setbacks, for which the applicants are requesting modifications. Therefore, this finding can be made.

**2.7 That in designated rural areas, the use will be compatible with and subordinate to the agricultural, rural, and scenic character of the rural areas.**

The project is not located in a designated rural area, so this finding does not apply.

**2.8 That the project will not conflict with any easements required for public access through, or public use of a portion of the subject property.**

There are no easements required for public access through or use of any portion of the subject property. Therefore, this finding can be made.

**3. DEVELOPMENT PLAN MODIFICATION FINDINGS**

**3.1 The Planning Commission finds the project justifies such modifications.**

Modifications to the rear yard setback to allow portions of the existing unpermitted greenhouses and shade structures to encroach up to 14 feet 7 inches into the 20-foot wide setback is justified since the property line is shared by a wholesale nursery to the west and there are no conflicts in use between the two properties. The greenhouses and shade structures do not create visual, noise, or safety disturbances, three of the primary reasons for establishing setbacks. The greenhouses have been in place for over 30 years and the shade structures for over 10 years and no complaints have been made that their presence in the rear setback has a negative impact on the neighboring properties. Removal of the portions of the existing unpermitted structures within the setback area would adversely impact the viability of the orchid operation, and thus the maintenance of the land in agriculture for the long-term. Therefore, this modification is justified.

A modification to the front yard setback to allow the minor encroachment of small portions of two of the required five parking spaces is justified since the parking spaces are located to ensure the maximum amount of space is available to continue the existing orchid operation. Movement of the spaces outside of the front setback could require removal or relocation of the existing unpermitted greenhouses or shade structures which could negatively impact the existing orchid operation. Encroachment of these spaces into

the setback has no impact on surrounding neighbors and would continue to provide safe turning movements for parked vehicles.

Lastly, a modification to the front yard setback to allow the encroachment of an existing trash enclosure into the front yard setback is justified as it has occupied this location for some time without any complaints or impacts to surrounding neighbors. Its location ensures that no land is unnecessarily removed from the orchid operation. For these reasons, this finding can be made.

**ATTACHMENT C: CONDITIONS OF APPROVAL**

**Rose/Cal-Orchid Greenhouses Development Plan  
05DVP-00000-00022**

**April 25, 2007**

**I. PROJECT DESCRIPTION**

1. This Final Development Plan [05DVP-00000-00022] is based upon and limited to compliance with the project description, the hearing exhibits stamped and dated April 25, 2007, and conditions of approval set forth below. Any deviations from the project description, exhibits or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

**The project description is as follows:**

Approval of a Development Plan to permit and legalize 39,079 square feet of greenhouses and shade house structures and a 405 square foot roofed gazebo, all of which were previously constructed without the benefit of permits. As part of the project, the applicants have been granted a modification to the rear yard setback to allow encroachment of the previously constructed greenhouse and shade house facilities by up to approximately five feet five inches from the property line at their closest point. Additionally, the applicants have been granted a modification to the front yard setback to allow encroachment of an existing trash enclosure into the front yard by up to 35 feet from the property line and small portions of two of the required five parking spaces. Existing permitted structures on site include a 1,240 square foot office/residence, a 10,800 square foot greenhouse, and 617 square feet of storage structures. In order to satisfy County Fire Department emergency access requirements, the applicant will construct an all-weather hammerhead turnaround at the entrance to the project site that meets County Fire Department dimension standards. Also included in the project is the demarcation of a handicapped parking space as well as remodeling of the existing permitted residence/office to ensure compliance with ADA accessibility requirements.

**II. MITIGATION MEASURES FROM ND, 07NGD-00000-00001**

2. **Mitigation WR-1:** The County Fire Department-approved hammerhead turnaround shall be constructed of pervious material to the satisfaction of Planning and Development and the County Fire Department. To the extent feasible, the turnaround shall be contoured to allow the maximum infiltration of surface water within the project site. **Plan Requirements and Timing:** Pervious surfaces shall be described and depicted graphically on the site, building, grading and landscape plans. The plans shall be submitted to P&D for review prior to approval of Coastal Development Permits.

**MONITORING:** P&D shall review plans and site inspect to ensure compliance prior to issuance of occupancy clearance.

3. **Mitigation WR-2:** The applicant shall install a catch basin along the west side of the existing and proposed greenhouses at the northwest corner of the property, consisting of the following dimensions: 20 feet long, by three feet wide, by two feet deep. The catch basin shall intercept roof water runoff from the gutters of the expanded greenhouses to allow maximum infiltration into the ground before entering the existing unlined drainage channel. **Plan Requirements and Timing:** The catch basin shall be depicted on all plans and submitted to Planning and Development for review prior to approval of a Coastal Development Permit for the unpermitted structures. The basin shall be installed prior to the issuance of building permits for the unpermitted greenhouses.

**Monitoring:** Planning and Development shall review the plans and site inspect to ensure compliance prior to issuance of occupancy clearance.

### III. PROJECT SPECIFIC CONDITIONS

4. Construction activity for site preparation and for future development shall be limited to the hours between 7:30 a.m. and 4:30 p.m., Monday through Friday. No construction shall occur on State holidays (e.g., Thanksgiving, Labor Day). Construction equipment maintenance shall be limited to the same hours. Non-noise generating construction activities such as interior painting are not subject to these restrictions. **Plan Requirements:** Two signs stating these restrictions shall be provided by the applicant and posted on site. **Timing:** Signs shall be in place prior to beginning of and throughout grading and construction activities. Violations may result in suspension of permits.

**MONITORING:** Building Inspectors and Permit Compliance shall spot check and respond to complaints.

5. If the construction site is graded and left undeveloped for over four weeks, the applicant shall employ the following methods immediately to inhibit dust generation:
  - a. seeding and watering to revegetate graded areas; and/or
  - b. spreading of soil binders; and/or
  - c. any other methods deemed appropriate by Planning and Development.

**Plan Requirements:** These requirements shall be noted on all plans. **Timing:** Plans are required prior to approval of Coastal Development Permits.

**MONITORING:** Grading Inspector shall perform periodic site inspections.

6. Dust generated by the development activities shall be kept to a minimum with a goal of retaining dust on the site. Follow the dust control measures listed below.

- a. During clearing, grading, earth moving, excavation, or transportation of cut or fill materials, water trucks or sprinkler systems are to be used to prevent dust from leaving the site and to create a crust after each day's activities cease.
- b. During construction, water trucks or sprinkler systems shall be used to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this would include wetting down such areas in the later morning and after work is completed for the day and whenever wind exceeds 15 miles per hour.
- c. Soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation.

**Plan Requirements:** All requirements shall be shown on grading and building plans.

**Timing:** Condition shall be adhered to throughout all grading and construction periods.

**MONITORING:** P&D shall ensure measures are on plans. P&D Grading and Building inspectors shall spot check; Grading and Building shall ensure compliance on-site. APCD inspectors shall respond to nuisance complaints.

7. To prevent storm water contamination during roadwork or pavement construction, concrete, asphalt, and seal coat shall be applied during dry weather. Storm drains and manholes within the construction area shall be covered when paving or applying seal coat, slurry, fog seal, etc. **Plan Requirements and Timing:** These requirements shall be specified on the grading and building plans submitted to P&D prior to approval of Coastal Development Permits.

**MONITORING:** P&D shall site inspect, as needed during construction.

#### IV. STANDARD CONDITIONS

8. **Expiration:** Approval of the Final Development Plan shall expire five (5) years after approval by the Planning Commission, unless prior to the expiration date, substantial physical construction has been completed on the development or a time extension has been applied for by the applicant. The decision maker with jurisdiction over the project may, upon good cause shown, grant a time extension for one year.
9. **DP Conformance:** No permits for development, including grading, shall be issued except in conformance with an approved Final Development Plan. The size, shape, arrangement, use, and location of buildings, walkways, parking areas, and landscaped areas shall be developed in conformity with the approved development plan stamped and dated April 25, 2007. Substantial conformity shall be determined by the Director of P&D.
10. **Subsequent Approvals:** On the date a subsequent Preliminary or Final Development Plan is approved for this site, any previously approved but unbuilt plans shall become null and void.

11. **Time Extension:** If the applicant requests a time extension for this permit/project, the permit/project may be revised to include updated language to standard conditions and/or mitigation measures and additional conditions and/or mitigation measures which reflect changed circumstances or additional identified project impacts. Mitigation fees shall be those in effect at the time of approval of a CDP.
12. **Final BAR approval:** The applicant shall obtain final approval from the South County Board of Architectural Review (BAR) prior to approval of a CDP.
13. **Additional Permits Required:** Before using any land or structure, or commencing any work pertaining to the erection, moving, alteration, enlarging, or rebuilding of any building, structure, or improvement, the applicant shall obtain a Coastal Development Permit and Building Permit from Planning and Development. These Permits are required by ordinance and are necessary to ensure implementation of the conditions required by the Planning Commission. Before any Permit will be issued by Planning and Development, the applicant must obtain written clearance from all departments having conditions; such clearance shall indicate that the applicant has satisfied all pre-construction conditions. A form for such clearance is available from Planning and Development.
14. **Compliance with Departmental letter required as follows:**
  - a. County Fire Department, September 8, 2006
15. **Print & illustrate conditions on plans:** All applicable final conditions of approval approved by the Board of Supervisors shall be printed in their entirety on applicable pages of grading/construction or building plans submitted to P&D or Building and Safety Division. These shall be graphically illustrated where feasible.
16. **Mitigation Monitoring required:** The applicant shall ensure that the project complies with all approved plans and all project conditions including those which must be monitored after the project is built and occupied. To accomplish this the applicant agrees to:
  - a. Contact P&D compliance staff as soon as possible after project approval to provide the name and phone number of the future contact person for the project and give estimated dates for future project activities.
  - b. Contact P&D compliance staff at least two weeks prior to commencement of construction activities to schedule an on-site pre-construction meeting with the owner, compliance staff, other agency personnel and with key construction personnel.
  - c. Pay fees prior to approval of Coastal Development Permits as authorized under ordinance and fee schedules to cover full costs of monitoring as described above, including costs for P&D to hire and manage outside consultants when deemed necessary by P&D staff (e.g. non-compliance situations, special monitoring

needed for sensitive areas including but not limited to biologists, archaeologists) to assess damage and/or ensure compliance. In such cases, the applicant shall comply with P&D recommendations to bring the project into compliance. The decision of the Director of P&D shall be final in the event of a dispute.

17. **Fees Required:** Prior to issuance of a Coastal Development Permit, the applicant shall pay all applicable P&D permit processing fees in full.
18. **Change of Use:** Any change of use in the proposed building or structure shall be subject to environmental analysis and appropriate review by the County including building code compliance.
19. **Indemnity and Separation Clauses:** Developer shall defend, indemnify and hold harmless the County or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, the County's approval of the Development Plan. In the event that the County fails promptly to notify the applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.
20. **Legal Challenge:** In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided for by law, this approval shall be suspended pending dismissal of such action, the expiration of the limitation period applicable to such action, or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the County and substitute conditions may be imposed.