

ORDINANCE 06-11178

AN ORDINANCE DETERMINING REZONE PETITION 06-R1 FOR BEAR'S PAW COUNTRY CLUB LOCATED AT 2500 GOLDEN GATE PARKWAY, MORE PARTICULARLY DESCRIBED HEREIN, IN ORDER TO PERMIT REZONING FROM PLANNED DEVELOPMENT (PD) TO A NEW PLANNED DEVELOPMENT (PD) IN ORDER TO REPLACE A HURRICANE-DAMAGED CHAIN LINK FENCE WITH AN 8-FOOT HIGH MASONRY WALL; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

WHEREAS, Bear's Paw Country Club, owner of property at 2500 Golden Gate Parkway, has petitioned to change the zoning from Planned Development (PD) to a new Planned Development (PD), in order to replace a hurricane-damaged 6' chain link fence, topped with 1.5' of barbed wire, with an 8-foot high masonry wall along the northern boundary of the development adjacent to the south side of Golden Gate Parkway and along the eastern boundary of the property for a total length of 5,365 feet of wall; and

WHEREAS, D. James MacArthur, has been authorized by the owner(s) as agent for this petition; and

WHEREAS, following an advertised public hearing, the Planning Advisory Board considered the public input, staff recommendations and criteria in the Code and has recommended by a vote of 7 to 0 that Rezone Petition 06-R1 be approved with conditions; and

WHEREAS, after considering the recommendation of the Planning Advisory Board and City staff, following a public hearing on the subject, and providing the petitioner, staff and the public an opportunity to present testimony and evidence, the City Council has determined that the petition should be granted;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPLES, FLORIDA:

Section 1. That Rezone Petition 06-R1 is hereby granted for Bear's Paw Country Club, located at 2500 Golden Gate Parkway, said property being more particularly described in the attached Exhibit "A" in order to permit rezoning from Planned Development (PD) to a new Planned Development (PD) in order to replace a hurricane-damaged 6' chain link fence with an 8-foot high masonry wall, in accordance with the Amended Planned Development Document for Bear's Paw Country Club, a copy of which is attached hereto as Exhibit "B".

Section 2. That this rezoning is subject to the findings set forth in Staff Report 06-R1 dated 3-8-06, a copy of which is attached hereto and made a part hereof as Exhibit "C", relocating gopher tortoises on site, locating the fence outside the utility easement and requiring an approved landscape plan.

Section 3. If any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

**Section 4.** That all sections or parts of sections of the Code of Municipal Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

**Section 5.** This ordinance shall take effect immediately upon adoption at second reading.

APPROVED AT FIRST READING THIS 15TH DAY OF MARCH, 2006.

PASSED AND ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA, THIS 5TH DAY OF APRIL, 2006.

\_\_\_\_\_  
Bill Barnett, Mayor

Attest:

Approved as to form and legality:

\_\_\_\_\_  
Tara A. Norman, City Clerk  
M:\REF\COUNCIL\ORD\2006\06-11178

\_\_\_\_\_  
Robert D. Pritt, City Attorney

Date filed with City Clerk: \_\_\_\_\_

Exhibit A

**HOWELL F. DAVIS & ASSOCIATES, INC.**



**CONSULTING ENGINEERS AND SURVEYORS**

8333 MCGREGOR BLVD., FORT MYERS, FL 33907

(813) 481-1331

Description of a Parcel  
Lying in Section 26, T-49-S, R-25-E  
Collier County, Florida  
Bear's Paw - Golf Course

000673

PAGE

001175

OR BOOK

A tract or parcel of land situated in the State of Florida, County of Collier, being a part of the south one half (S 1/2) of Section 26, Township 49 South, Range 25 East, and further bounded and described as follows:

Beginning at the southwest corner of said Section 26; thence  $N01^{\circ}36'06''W$  along the west line of the southwest one quarter (SW 1/4) of said section for 2102.40 feet to the south right-of-way line of Golden Gate Parkway (100 feet wide); thence  $N89^{\circ}11'27''E$  along said right-of-way line for 3235.68 feet to the beginning of a road right-of-way change as described in Official Records Book 916 at Page 831 and as graphically shown in Official Records Book 903, Page 1546 of the Public Records of said Collier County; thence  $S87^{\circ}56'34''E$  along said right-of-way change for 99.99 feet; thence  $N89^{\circ}11'27''E$  along said right-of-way change for 187.97 feet; thence  $N86^{\circ}00'55''E$  along said right-of-way change for 90.26 feet to the terminus of said change; thence  $N89^{\circ}11'27''E$  along the south right-of-way line of said Golden Gate Parkway for 557.43 feet to the northwest corner of a parcel described in Official Records Book 788 at Page 875; thence  $S00^{\circ}06'58''W$  along the west line of said parcel for 408.63 feet; thence  $N89^{\circ}11'27''E$  along the south line of said parcel, parallel with said south right-of-way line for 1008.98 feet to the northwest corner of a parcel described in Official Records Book 1013 at Page 1885; thence  $S00^{\circ}06'58''W$  along the west line of said parcel for 66.45 feet to the beginning of a curve concave to the northeast having a radius of 69.00 feet; thence southeasterly along said curve and said parcel through a central angle of  $51^{\circ}27'03''$  for 61.96 feet to the northwest corner of a parcel described in Official Records Book 1013 at Page 1887; thence continue easterly along said curve and the north line of said parcel through a central angle of  $38^{\circ}32'57''$  for 46.42 feet; thence  $S89^{\circ}53'02''E$  along said north line for 14.00 feet to the beginning of a curve concave to the southwest having a radius of 35.00 feet; thence easterly along said curve and said northerly line through a central angle of  $53^{\circ}07'50''$  for 32.46 feet to the west right-of-way line of Airport Road (100 feet wide); thence  $S00^{\circ}06'58''W$ , nontangentially along said west line for 1558.77 feet to the south line of the southeast one quarter (SE 1/4) of said Section 26; thence  $S89^{\circ}18'30''W$  along the south line of said fraction for 2581.87 feet to the southwest corner of said fraction; thence  $S89^{\circ}25'34''W$  along the south line of the southwest one quarter of said section for 2645.92 feet to the Point of Beginning.

Exhibit "B"

Amended Planned Development Document

for

Bear's Paw Country Club

I. Legal Description.

A legal description and map of the land subject to this PD is set forth on Exhibit "B" - "Schedule of Legal Descriptions".

II. Uses Permitted and Development Standards for the Golf Course Property.

A. Uses Permitted: No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or in part, for other than the following:

1) Golf Courses

B. Accessory uses and structures which are incidental to and customarily associated with the above permitted use.

1) Recreational facilities that serve as an integral part of the permitted use, including but not limited to clubhouse, community center building, practice driving range, shuffleboard courts, swimming pools and tennis facilities, snack shops and rest rooms.

2) Small commercial establishments, including gift shops, golf shops, golf equipment sales, restaurants, cocktail lounges, and similar uses intended to exclusively serve patrons of the golf course or other permitted recreational facilities.

3) A maximum of two (2) residential dwelling units for use by golf course employees in conjunction with the operation of the golf course.

C. General Requirements:

1) Overall site design shall be harmonious in terms of landscaping, enclosure of structures, location of access streets and parking areas and location and treatment of buffer areas.

2) Buildings shall be set back a minimum of fifty (50) feet from abutting residential districts and the setback area shall be appropriately landscaped and maintained to act as a buffer zone.

3) Lighting facilities shall be arranged in a manner which will protect roadways and neighboring properties from direct glare or other interferences.

D. Maximum Height. Thirty-five feet (35').

E. Minimum Off-Street Parking. No additional parking will be required for the golf course facility as long as the golf course facility remains private.

- F. Signs. The sign regulations for the City of Naples shall apply for all new signs.
- G. A ~~chain-link or solid fence wall~~, not exceeding 6 8 feet in height measured from the back of the curb shall be permitted on the exterior property line of the Bears Paw Country Club adjacent to the public rights of way as generally depicted in the two street sections, a copy of which is attached as Attachment 1 (street section). ~~The existing fence along the south and west property line may be replaced to the same height as existing at the time of annexation.~~
- H. The gate house may be moved to accommodate the anticipated new location for the entrance road to the property. The new gate house facility will be similar to the existing gate house facility. No additional parking shall be required for the gate house facility. Building permits in conformance with the City's codes shall be required for the construction of the new gate house facility.
- I. Isolated buildings accessory to the golf course facility may be served by septic tanks in conformance with State Statute requirements.

### III. Uses Permitted and Development Standards for the Residential Areas.

- A. Uses Permitted: No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or in part, for other than the following:
- 1) Single-family residences.
  - 2) Duplexes, Two-family residences.
  - 3) Multiple family dwellings, Townhouses
  - 4) Cluster housing, group housing or patio housing subject to General Development Site Plan approval.
- B. Accessory uses and structures which are incidental to and customarily associated with the above permitted use.
- 1) Private boat houses and docks.
- C. Minimum Lot Area:  
Single-family, duplex and two family residences: 7,260 square feet per dwelling unit. Multiple family and townhouses: One (1) acre.
- D. Minimum Lot Width: One hundred feet (100').
- E. Minimum Yard Requirement.  
Front yard: Thirty-five feet (35').  
Side yard: Fifteen feet (15').  
Rear yard: Thirty feet (30').
- F. Maximum Height:  
Principal Structures: Three (3) habitable stories

G. Maximum Density: Six (6) units per gross acre.

H. Distance Between Structures: Thirty (30) feet or one-half (1/2) the sum of the heights of the adjacent structures, whichever is greater.

I. Minimum Floor Area: Seven hundred fifty (750) square feet.

J. Minimum Off-Street Parking: Two (2) spaces per unit.

K. Landscaping: Landscaping for any new development shall comply with city code.

L. Signs: New signs shall comply with City code.

IV. Additional Standards:

A. Local Development Permits. The City shall recognize all permits received from Collier County and shall not place any additional requirements on any structure or approval. Any new development shall comply with all requirements and conditions of this PD and the City codes.

B. Local Development Permits. The failure of this Agreement address a particular permit, condition, term or restriction shall not relieve the Applicant of the necessity of complying with the law governing said permitting requirements, conditions, terms or restrictions.

C. The City shall encourage but shall not require the removal of exotic vegetation.

D. Prior to obtaining building permits, applicant will provide a landscape and vegetation plan for the portions of the property lying between the wall and the street referred to in II. G., in accordance with the Corridor Management Overlay District.

Exhibit B- Schedule of Legal Descriptions

Exhibit A

**HOWELL F. DAVIS & ASSOCIATES, INC.**

**HFD CONSULTING ENGINEERS AND SURVEYORS**

8333 MCGREGOR BLVD., FORT MYERS, FL 33907

(813) 481-1331

Description of a Parcel  
Lying in Section 26, T-49-S, R-25-E  
Collier County, Florida  
Bear's Paw - Golf Course

908673  
PAGE  
OR BOOK

A tract or parcel of land situated in the State of Florida, County of Collier, being a part of the south one half (S 1/2) of Section 26, Township 49 South, Range 25 East, and further bounded and described as follows:

Beginning at the southwest corner of said Section 26; thence N01°36'06"W along the west line of the southwest one quarter (SW 1/4) of said section for 2102.40 feet to the south right-of-way line of Golden Gate Parkway (100 feet wide); thence N89°11'27"E along said right-of-way line for 3235.68 feet to the beginning of a road right-of-way change as described in Official Records Book 916 at Page 831 and as graphically shown in Official Records Book 903, Page 1546 of the Public Records of said Collier County; thence S87°56'34"E along said right-of-way change for 99.99 feet; thence N89°11'27"E along said right-of-way change for 187.97 feet; thence N86°00'55"E along said right-of-way change for 90.26 feet to the terminus of said change; thence N89°11'27"E along the south right-of-way line of said Golden Gate Parkway for 557.43 feet to the northwest corner of a parcel described in Official Records Book 788 at Page 875; thence S00°06'58"W along the west line of said parcel for 408.63 feet; thence N89°11'27"E along the south line of said parcel, parallel with said south right-of-way line for 1008.98 feet to the northwest corner of a parcel described in Official Records Book 1013 at Page 1885; thence S00°06'58"W along the west line of said parcel for 66.45 feet to the beginning of a curve concave to the northeast having a radius of 69.00 feet; thence southeasterly along said curve and said parcel through a central angle of 51°27'03" for 61.96 feet to the northwest corner of a parcel described in Official Records Book 1013 at Page 1887; thence continue easterly along said curve and the north line of said parcel through a central angle of 38°32'57" for 46.42 feet; thence S89°53'02"E along said north line for 14.00 feet to the beginning of a curve concave to the southwest having a radius of 35.00 feet; thence easterly along said curve and said northerly line through a central angle of 53°07'50" for 32.46 feet to the west right-of-way line of Airport Road (100 feet wide); thence S00°06'58"W, nontangentially along said west line for 1558.77 feet to the south line of the southeast one quarter (SE 1/4) of said Section 26; thence S89°18'30"W along the south line of said fraction for 2581.87 feet to the southwest corner of said fraction; thence S89°25'34"W along the south line of the southwest one quarter of said section for 2645.92 feet to the Point of Beginning.



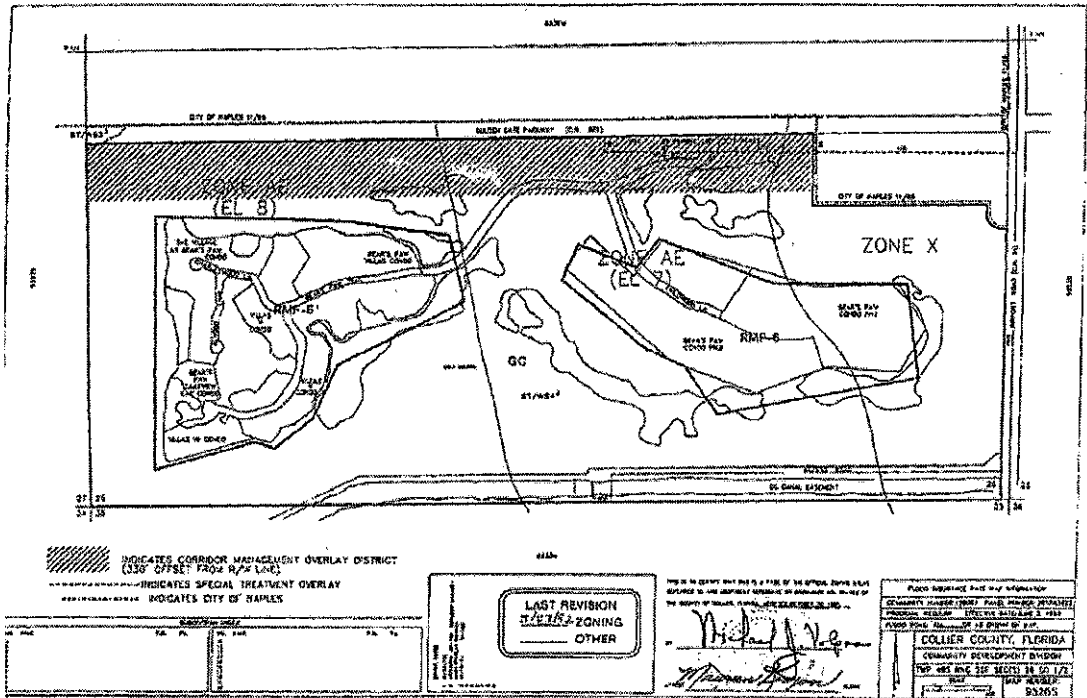


Exhibit C

Meeting of 3/08/06  
Agenda Item No. 5

CITY OF NAPLES

STAFF REPORT

To: Planning Advisory Board  
From: Planning Division  
Subject: Petition No. 06-R1  
Petitioner: Bear's Paw Country Club  
Agent: D. James McArthur  
Date: February 23, 2006

---

- **REQUEST:** This is a request for approval to rezone the Bear's Paw Country Club Planned Development, PD to a new PD in order to replace a hurricane-damaged 6' chain link fence, topped with 1.5' of barbed wire, with an 8' high masonry security wall adjacent to portions of 2500 Golden Gate Parkway and Airport-Pulling Road.
- **LOCATION:** 2500 Golden Gate Parkway
- **SIZE OF PARCEL:** 245 total acres
- **EXISTING LAND USE:** The land use within Bear's paw is a mix of single-family homes, condominiums and villas and a golf course country club. More specifically, Bear's Paw Country Club is a 245-acre site composed of 61 acres of residential uses and 184 acres of golf course, clubhouse, and common areas. The property is located south of golden gate parkway and west of Airport-Pulling Road.
- **CURRENT ZONING:** The subject property is zoned PD, Planned Development. Below (Fig. 1) is an aerial of the subject property.

Figure 1. Bear's Paw Country Club



- **PREVIOUS ACTION:** The referendum election on the annexation of Bear's Paw into the City of Naples was held on November 2, 1993. Upon annexation, the property automatically converted to zoning districts R3-6 and Public Service (PS). Rezone petition 93-R9 was presented to the Planning Advisory Board on December 8, 1993 where the PAB unanimously voted to recommend approval. The rezone petition was approved by City Council on January 5, 1994.
- **PENDING AND/OR SUBSEQUENT ACTION:** The Planning Advisory Board (PAB) will hold a public hearing on this petition at its meeting on Wednesday, March 8, 2006. At the close of the public hearing, the PAB will make a recommendation to the City Council. The City Council should consider the PAB's recommendation at as subsequent meeting in March 15, 2006, with final action by second reading of an ordinance on April 5, 2006.
- **COMPREHENSIVE PLAN:** The subject property is designated as Public, Semi-Public and Private recreation on the Future Land Use Map of the Comprehensive Plan.
- **SURROUNDING PROPERTIES:** Bear's Paw Country Club is bounded on the north by the Estuary at Grey Oaks Planned Development and bounded on the south by Collier County properties zoned residential single-family (RSF-4) and P.U.D. Properties lying west of Bear's Paw are located in Collier County and zoned for Public Uses (P.U.) and residential multi-family (RMF- 6) and agricultural (A-3). The eastward boundary of Bear's Paw abuts Airport-Pulling Road; a busy thoroughfare with P.U.D. zoned county lands across the roadway.

	North	South	East	West
<b>Zoning</b>	PD, Planned Development	RSF-4 and PUD, Residential Single-family and planned unit Development	PUD, Planned Unit Development	PU and RMF-6, Public Use and Residential Multi-family
<b>Land Use</b>	Residential	Residential and River Reach PUD	PUD	Residential and Caribbean Gardens

- **PROPOSED DEVELOPMENT:** Bear's Paw Country Club is seeking an amendment to their Planned Development to construct an 8-foot wall to replace a 6-foot chain link fence that was damaged by Hurricane Wilma. The 8-foot wall will comprise 5,365 linear feet with 3,980 feet of frontage on Golden Gate Parkway and 1,385 feet of frontage on Airport-Pulling Road. The original chain link fence was constructed circa 1982 and the new wall will be designed to withstand 130 mph winds. The new wall will be supported by two pillars and will have three inches of ground clearance to facilitate stormwater flow and is detailed in the petitioner's submittal.

**GUIDELINES AND STANDARDS:** See Exhibit A.

- **PUBLIC NOTIFICATION:** On February 16, 2006 a total of 451 letters were mailed to all property owners located within 500 feet of the subject property. To date there has been one response, a request for a map of the property.
- **FINDINGS:** Findings relative to the proposed rezoning are provided for consideration as follows:
  - 1) Comments from the Fire and Solid Waste Divisions indicate no objections or applicable comments relative to the rezoning.

- 2) Mr. George Archibald and Vlad Ryziv, both City engineers, visited the site and made recommendations regarding the wall and stormwater drainage patterns and flow. These comments have been incorporated into the design of the wall.
- 3) The Utilities Administration Department has a 36" raw water line in the area of the wall location. The City owns an easement for this water line and the wall must be constructed outside of the easement.
- 4) Dr. Michael Bauer, Natural Resources Division, and Tony McIlwain, Planner, conducted a site visit and observed what appeared to be a gopher tortoise burrow. The gopher tortoise is a state protected species and Dr. Bauer recommends that the petitioners be required to have a survey of the area adjacent to Golden Gate Parkway, prior to any construction work. His comments are attached. (Attachment 2)
- 5) Planning staff is recommending the removal, where feasible, of exotic plants and trees, specifically Brazilian Peppers and Maleluca. These exotic plants pose a threat to the natural ecosystem of Southwest Florida. Removal efforts, however, should not lead to a total denuding of the premise. Landscaping standards must comply with the standards listed in the Corridor Management Overlay District, specifically Code section 102-950. It reads as follows:

**Landscaping plans for Golden Gate Parkway must comply with the general standards set out in this comprehensive development code as well as specific district standards. Landscaped areas shall be 25 feet in width abutting the right-of-way property line. Indigenous species or species compatible with the existing streetscape shall be provided. All trees shall have a 20-foot canopy at maturity with a 15-foot canopy when planted. Slash pines may substitute for canopy trees. Pine trees and native vegetation shall be retained.**

- **STAFF RECOMMENDATION:** The proposed rezoning is consistent with the Bear's Paw Neighborhood Action Plan contained in the Comprehensive Plan. The top three issues identified in the Action Plan were traffic enforcement, airport noise, and crime and safety. The new 8-foot wall will act as a buffer to traffic noise and deter crime and increase safety. The wall should enhance the visual character and aesthetics of the community while mitigating future blow down effects (upon the trees) from hurricane force-winds. The Planning Division recommends approval of the proposed rezoning from Planned Development, PD to a new PD subject to resolution of the findings of this report.

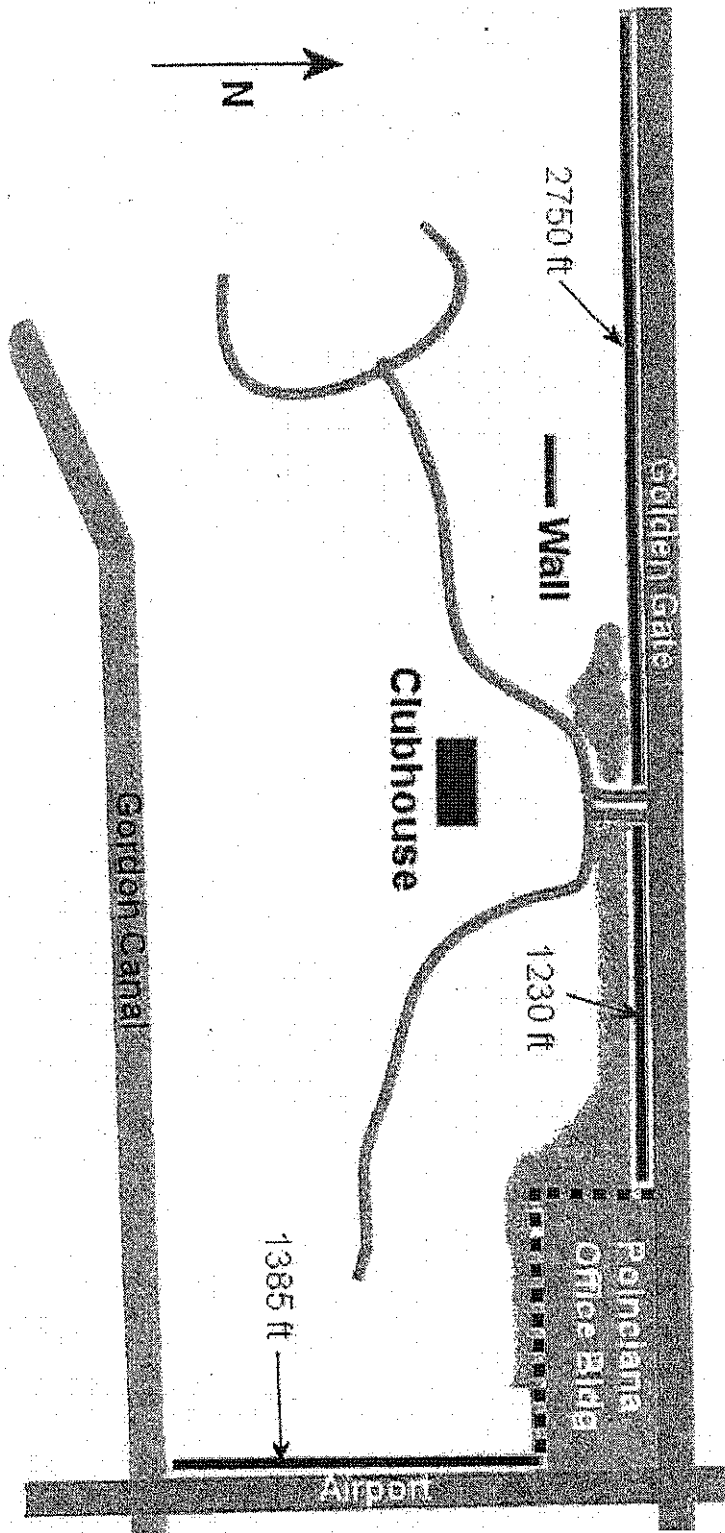
Respectfully submitted,  
Stephen R. Olmsted, AICP  
Planning Manager

Prepared by:  
Tony D. McIlwain  
Planner II

Exhibit A (to the staff report)

- (1) Land uses within the development shall be appropriate in their proposed location, in their relationships to each other, and in their relationships with uses and activities on adjacent and nearby properties.
- (2) The development shall comply with applicable city plans and planning policies, and shall have a beneficial effect both upon the area of the city in which it is proposed to be established and upon the city as a whole.
- (3) The total land area within the development and the area devoted to each functional portion of the development shall be adequate to serve its intended purpose.
- (4) Streets, utilities, drainage facilities, recreation areas, building heights, sizes and yards, and vehicular parking and loading facilities shall be appropriate for the particular use involved, and shall equal or exceed the level of design and construction quality required of similar land development elsewhere in the city.
- (5) Visual character and community amenities shall be equal or better in quality than that required by standard zoning districts for similar development.
- (6) Open space shall be adequate for the type of development and the population densities proposed.
- (7) Areas proposed for common ownership shall be subject to a reliable and continuing maintenance guarantee.

Attachment "1"  
(street section)



ATTACHMENT 2

---

**From:** Mike Bauer  
**Sent:** Tuesday, February 21, 2006 3:27 PM  
**To:** Tony McIlwain  
**Cc:** Dave Lykins  
**Subject:** Bears Paw

Tony,

I would like to note that, per our inspection of Bears Paw in relation to the construction of a wall along the north boundary adjacent to Golden Gate Parkway, we observed what appeared to be a gopher tortoise burrow. Thus, prior to any construction work, I would recommend they be required to have a survey made of the area for gopher tortoises. The gopher tortoise is a state protected species, and there are county ordinances that address their protection.

Mike