

# SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

## Agenda Number:

**Prepared on:** December 2, 2004  
**Department Name:** Planning and Development  
**Department No.:** 053  
**Agenda Date:** December 14, 2004  
**Placement:** Departmental  
**Estimate Time:** 30 mins.  
**Continued Item:** NO  
**If Yes, date from:**  
**Document File Name:** G:\GROUP\Permitting\Case Files\APL\2000s\04 cases\04APL-00000-00028\BOS Letter.DOC

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**TO:** Board of Supervisors

**FROM:** Val Alexeeff, Director

**STAFF CONTACT:** Brian A. Tetley, Planner (934-6589)  
John Karamitsos, Supervising Planner (934-6255)  
Development Review Division – North County

**SUBJECT:** Bratt / Johnson / Prilepine Appeal of Zoning Administrator Approval of the Foxen-Alamos Tentative Parcel Map, 04APL-00000-00028, 03TPM-00000-00016(TPM 14,637)  
480 Foxen Lane, Los Alamos, APN 101-260-023  
Third Supervisorial District

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## Recommendation(s):

That the Board of Supervisors partially uphold the appeal of Eric Bratt, Vicki Johnson, and Mary Prilepine of the Zoning Administrator's September 13, 2004 approval of the Foxen-Alamos Parcel Map No. 03TPM-00000-00016(TPM 14,637).

Your Board's action should include the following:

1. Adopt the required findings for the project, included as Attachment B;
2. Partially uphold the appeal, with revisions to the Zoning Administrator's approval of Tentative Parcel Map application 03TPM-00000-00016(TPM 14,637), based on a facilitated agreement between the appellants and applicant.
3. Approve the revised Tentative Parcel Map 03TPM-00000-00016(TPM 14,637).

## **Executive Summary and Discussion:**

### **Project History**

- September 17, 2003 Parcel Map application received by Planning and Development.
- April 9, 2004 Parcel Map application deemed complete by Planning and Development.
- September 13, 2004 Zoning Administrator approves project during publicly noticed hearing.
- September 23, 2004 Bratt/Johnson/Prilepine file timely appeal of approved project.
- November 19, 2004 Facilitation Meeting held with County Counsel.
- November 30, 2004 Appellants and Applicant reach agreement on project changes.

At the September 13, 2004 Zoning Administrator hearing, staff presented a recommendation for approval of Tentative Parcel Map 03TPM-00000-00016. As recommended, the Zoning Administrator approved the project. On September 23, 2004, the appellants filed a timely appeal of the Zoning Administrator's approval of the Tentative Parcel Map to the Board of Supervisors.

The approved project consists of a Tentative Parcel Map application to subdivide an approximately 23,532 (gross and net) square foot parcel into three parcels of approximately 7,923 square feet (Parcel 1), 7,765 square feet (Parcel 2), and 7,844 square feet (Parcel 3), in the 7-R-1 Zone District under Article III (Inland Zoning Ordinance) within the township of Los Alamos in the Third Supervisorial District.

### **Facilitated Settlement**

On November 19, 2004 a facilitation meeting was held and attended by the appellants; Mr. Bratt, Mrs. Prilepine and Mrs. Johnson, the applicant; Mr. Collison, Mr. Seltzer from County Counsel's office, and P&D planner Brian Tetley. The meeting helped to identify the issues of contention, but an agreement was not reached. After the facilitation meeting, both parties continued informal facilitated discussions which ultimately led to an agreement to modify the approved map on November 30, 2004. This agreement is composed of the following components which appear in the form of a revised Tentative Parcel Map and revised project description to which all parties are recommending Board approval:

- Relocation of the access driveway from the northern edge of the property to the southern edge of the property.
- Single-story limitation on future structural development.
- Height limitation on future structural development of twenty-two (22) feet maximum average and twenty-six (26) feet maximum peak height.

- Limitation on the conversion or use of second-story attic/storage space, if any, to living area.

### **Staff Analysis**

Staff has reviewed each component of the proposed changes to the approved Tentative Parcel Map and have the following comments.

The agreed re-location of the access driveway to the southern edge of the property would not interfere with the existing traffic pattern or present any additional sight-distance limitations. The neighboring property immediately to the south is developed with one single-family dwelling. This dwelling has an existing private driveway and would not share access with the proposed development. The revised Tentative Parcel Map exhibit accompanying this report shows the relocated access driveway to the southern edge of the property.

The agreed height and story limitations on future development would tend to minimize the scale and visual mass of future development. Therefore, visual impacts would be further reduced from the approved project. The height and story limitations appear in the draft revised Conditions of Approval (Attachment C) as revised Condition No. 1 - Project Description. In addition, the buyer beware notifications contained in Condition No. 6 have been expanded to reflect the recommended height and story limitations.

The agreed limitation on the use or conversion of any future second-story attic or storage space is in response to privacy concerns of the appellants. This limitation appears in the draft revised Conditions of Approval (Attachment C) as revised Condition No. 1 - Project Description. In addition, the buyer beware notifications contained in Condition No. 6 have been expanded to reflect the recommended second-story living space conversion limitation.

As far as other public concern, outside of the current appeal, P&D was contacted via voice-mail message by Mrs. Appalonia Schoutens, a local resident that had concerns about the subject development. A return message was left for Mrs. Schoutens, but no more contact was initiated by her.

Also note the inclusion of an additional finding No. 3.1 contained in the draft revised Findings (Attachment B). The additional finding is in regards to the Zoning Administrator approved modification to allow for the creation of lots less than the minimum required lot depth, as provided for in the Subdivision Ordinance (Chapter 21 of the County Code). This finding was previously omitted from the Staff Report to the Zoning Administrator.

In conclusion, staff has determined that the proposed changes would reduce the scope of the proposed project and would, therefore, minimize any impacts and maximize consistency of the proposed project with the Comprehensive Plan. Based on the agreement reached between the parties, Staff recommends that the Board approve the noted changes to the proposed Tentative Parcel Map, including noted changes to the Project Description.

**Alignment with Board Strategic Plan:**

The recommendations are primarily aligned with actions required by law or by routine business necessity.

**Mandates and Service Levels:**

Pursuant to the Article III Zoning Ordinance, a decision of the Zoning Administrator may be appealed to the Board of Supervisors by the applicant or an aggrieved person.

**Fiscal and Facilities Impacts:**

Costs to process this appeal are partially offset by the \$435.00 appeal fee paid by the appellant. Costs beyond that fee are absorbed by Planning and Development. These funds are budgeted in the Permitting and Compliance Program of the Development Review North Division, as shown on page D-292 of the adopted 04/05 fiscal year budget.

**Special Instructions:**

Clerk of the Board shall forward a copy of the Minute Order to Planning and Development, Attn: Cintia Mendoza, Hearing Support.

Planning and Development will prepare all final action letters and notify all interested parties of the Board of Supervisors' final action.

**Concurrence:**

None

**Attachments:**

- A. Appeal form dated September 23, 2004
- B. Draft Revised Findings (underline and strikethrough denotes revisions)
- C. Draft Revised Conditions of Approval (underline and strikethrough denotes revisions)
- D. Zoning Administrator Staff Report dated September 6, 2004 with attachments
- E. Zoning Administrator Action letter dated September 23, 2004

## **ATTACHMENT C: CONDITIONS OF APPROVAL**

Foxen-Alamos Tentative Parcel Map  
Case No. 03TPM-00000-00016/TPM 14,637

### **PROJECT DESCRIPTION**

1. This Tentative Parcel Map, 03TPM-00000-00016/TPM 14,637 is based upon and limited to compliance with the project description, the Zoning Administrator's Hearing Exhibit marked "Exhibit No.1", dated September 13, 2004, and conditions of approval set forth below. Any deviations from the project description, exhibits, or conditions of approval must be reviewed and approved by the Zoning Administrator for conformity with this approval. Deviations may require modification to the permit and/or further environmental review. Deviations without the above described approval would constitute a violation of permit approval.

**The project description is as follows:**

**The proposed Tentative Parcel Map would subdivide an approximately 23,532 (gross and net) square foot parcel into three parcels of approximately 7,923 square feet (Parcel 1), 7,765 square feet (Parcel 2), and 7,844 square feet (Parcel 3), in the 7-R-1 Zone District under Article III (Inland Zoning Ordinance). Structural development shall be limited to the designated building envelopes as depicted on each parcel. There is an existing single family dwelling (SFD) currently located on the westerly portion of the existing configured APN 101-260-023 (proposed as Parcel 1) and is proposed for removal as a part of this project. Access to all three proposed Parcels would be via a new private driveway located along the ~~northern~~southern property boundary. Future structures would be limited to single story with an average maximum height of twenty-two (22) feet with a maximum peak of twenty-six (26) feet. ~~Second-story~~ Loft or attic/storage space, if any, would not be allowed to be converted to or used as living space. Any windows associated with loft or attic/storage space shall not be oriented to the North. Water and sewer services would be provided by the Los Alamos Community Services District (LACSD) for proposed Parcels 1, 2, and 3.**

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto. All plans (such as Landscaping and Tree Protection Plans) must be submitted for review and approval and shall be implemented as approved by the County.

### **PROJECT SPECIFIC CONDITIONS**

2. Can & Will Serve Letter: Prior to final map recordation, the applicant shall provide a "Can & Will Serve" letter from the Los Alamos Community Services District to ensure

that adequate water and sewer facilities are provided.

3. Construction Hours: Construction activity for site preparation and for future development shall be limited to the hours between 8:00 a.m. and 5:00 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. Signs shall be in place prior to beginning of and throughout grading and construction activities, and proof of placement (e.g. photos) shall be submitted to P&D prior to Land Use Permit issuance. Violations may result in suspension of permits.

4. Permeable Hardscape: Future plans for drainage improvements, hardscape, and structural development shall demonstrate the integration of permeable and semi-permeable design and structures to the maximum extent feasible. One of the following private driveway designs (not common access driveway) shall be used unless unfeasibility is demonstrated to the satisfaction of P&D staff: paving only under wheels, flared driveway, or use of permeable surfaces for temporary or non-permanent parking areas. Other examples of permeable or semi-permeable improvements include turf block and french drains.

**Plan Requirements/Timing:** Prior to land use permit approval for drainage improvements (grading) and structural development, P&D shall determine that the provided plans show the integration of permeable and semi-permeable design and structures to the maximum extent feasible.

5. Street Landscape Plan: A street landscaping plan shall be implemented within the approximately 10 foot wide strip of right-of-way bounded on the west by Foxen Lane and on the east by proposed Parcel 1. The street landscaping shall, to the maximum extent feasible, emulate the type, number, and density of plants of the street landscaping immediately north of the project site. The street landscaping plan shall include three street trees of a type and size to provide partial shade and cover over the northbound travel lane of Foxen Lane. The plan shall consist of predominantly drought-tolerant, locally endemic native species. Any proposed wall or fence on the western property line of proposed Parcel 1 may be planted with trailing vines as part of the street landscaping plan. The plan shall include a long-term irrigation plan showing irrigation controller(s) and lines housed and extending from proposed Parcel 1. The landowner of proposed Parcel 1 would be responsible for maintenance and irrigation of the street landscaping for the life of the project. **Plan Requirements/Timing:** Prior to final map clearance, P&D and Public Works shall approve the street landscaping plan. The street landscaping and associated irrigation shall be installed according to plan prior to occupancy clearance for structural development on proposed Parcel 1.

**MONITORING:** Prior to occupancy clearance, Permit Compliance staff shall photo document installation. Permit Compliance staff shall check maintenance as needed.

6. Buyer Beware: The following buyer notifications shall be recorded on a separate information sheet with the final map:

**"IMPORTANT: BUYER NOTIFICATIONS**

1. Long-term maintenance and irrigation of street landscaping shall be the responsibility of the owner of Parcel 1. The plantings and irrigation system shall be maintained according to the approved plan.
  2. Future structures would be limited to single story with an average maximum height of twenty-two (22) feet with a maximum peak of twenty-six (26) feet.
  3. Loft or attic/storage space, if any, would not be allowed to be converted to or used as living space. Any windows associated with loft or attic/storage space shall not be oriented to the North.”
7. **Individual Lot Landscaping Plans:** Individual lot landscaping shall, to the maximum extent feasible, consist of drought tolerant native species and include water-conserving irrigation systems. Individual landscaping plans for front, rear and side yards shall meet the following criteria, as determined by P&D:
1. Plantings to be predominantly composed of native, drought-tolerant trees and shrubs.
  2. Low water-use species to comprise at least 75% of plant material in non-lawn areas. Where lawn areas are desired, these areas may only represent a minor part of the overall landscape plan and, low water consumptive types of seed or sod shall be used.
  3. Invasive plants including, but not limited to, iceplant, pampas grass, veldt grass, Monterey pine, eucalyptus, spiny clotbur, and Australian fireweed shall be avoided.
  4. Low water use irrigation systems shall be used. The systems shall be connected to controllers or timers and use drip irrigation where feasible.
- Plan Requirements/Timing:** Prior to land use permits for structures, applicant/owner shall submit four copies of a final landscape plan and water-conserving irrigation plan to P&D for review and approval. Prior to final occupancy clearance, landscaping and irrigation shall be installed.
- MONITORING:** Prior to occupancy clearance, Permit Compliance staff shall photo document installation. Permit compliance staff shall check maintenance as needed.
8. **Construction Activities:** During construction, washing of concrete trucks, paint, equipment, or similar activities shall occur only in areas where polluted water and materials can be contained or removed from the site. Wash water shall not be discharged to the storm drains, street, drainage ditches, creeks, or wetlands. The location(s) of the washout area(s) shall be clearly noted at the construction site with signs.
- Plan Requirements:** The applicant shall designate a washout area, acceptable to P&D, and this area shall be shown on the grading and building plans. The washout area(s) shall be in place and maintained throughout construction.
9. **Grading:** 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:** This requirement shall be noted on all building and grading plans.

10. Erosion and Sediment Control: Best available erosion and sediment control measures shall be implemented during grading and construction. Best available erosion and sediment control measures may include but are not limited to use of sediment basins, gravel bags, silt fences, geo-bags or gravel and geotextile fabric berms, erosion control blankets, coir rolls, jute netting, and straw bales. Storm drain inlets shall be protected from sediment-laden waters by use of inlet protection devices such as gravel bag barriers, filter fabric fences, block and gravel filters, and excavated inlet sediment traps. Sediment control measures shall be maintained for the duration of the grading period and until graded areas have been stabilized by structures, long-term erosion control measures or landscaping. Construction entrances and exits shall be stabilized using gravel beds, rumble plates, or other measures to prevent sediment from being tracked onto adjacent roadways. Any sediment or other materials tracked off site shall be removed the same day as they are tracked using dry cleaning methods.

**Plan Requirements:** An erosion and sediment control plan shall be submitted to and approved by P&D prior to approval of Land Use Permits. The plan shall be designed to address erosion and sediment control during all phases of development of the site. This requirement shall be noted on all building and grading plans.

11. Construction Trash: To prevent construction trash from blowing offsite, covered receptacles shall be provided onsite prior to commencement of grading or construction activities.

**Plan Requirements and Timing:** This requirement shall be noted on all building and grading plans. Prior to Land Use Permit approval, applicant shall designate and provide to Planning and Development the name and phone number of a contact person(s) to monitor trash/waste. Trash control shall occur throughout all grading and construction activities.

12. Exterior Lighting: Any exterior night lighting installed on the project site shall be of low intensity, low glare design, and shall be hooded to direct light downward onto the subject parcel and prevent spill-over onto adjacent parcels.

**Plan Requirements & Timing:** The locations of all exterior lighting fixtures, an arrow showing the direction of light being cast by each fixture, and the height of the fixtures shall be depicted on a all building and construction plans to be reviewed and approved by P&D prior to Land Use Permit approval for structural development.

13. New Construction Design:

- a. The design of new single-family dwellings shall recognize the setting and character that define the adjacent neighborhoods. Innovative and creative



residential design concepts should be used to enhance the social and aesthetic qualities of the community, while enhancing neighborhood compatibility.

- b. To the maximum extent feasible, the bulk and scale of new structures shall blend in as effectively as possible to be compatible with adjoining properties with transition between established neighborhoods and newer ones, recognizing that in certain instances bulk and scale of development may be different but should be designed to be as compatible as possible. Design features should reduce visual prominence.
  - c. Future application to P&D for residential structural development shall be accompanied by landscape and close-up photo-boards of nearby neighborhoods to allow for comparison with proposed development.
14. Energy Efficiency Measures: Future development on the proposed parcel shall integrate energy efficient design and equipment to the maximum extent feasible. Energy efficiency measures may include, but not limited to, the following:
- a. *the installation of low-NO<sub>x</sub> residential and commercial water heaters and space heaters per specifications in the 1991 SBCAPCD Air Quality Attainment Plan;*
  - b. *the installation of heat transfer modules in furnaces;*
  - c. *the use of light colored water based paint and roofing materials;*
  - d. *the installation of solar panels for residential water heating systems and other facilities and/or the use of water heaters that heat water only on demand;*
  - e. *the use of passive solar cooling/heating;*
  - f. *the use of natural lighting;*
  - g. *use of concrete or other non-pollutant materials for parking lots instead of asphalt;*
  - h. *installation of energy efficient appliances;*
  - i. *installation of energy efficient lighting;*
  - j. *use of landscaping to shade buildings and parking lots;*

**Plan Requirements/Timing:** Prior to land use permit approval for structural development, P&D shall determine that the provided plans show the integration of energy efficient design and equipment to the maximum extent feasible.

15. Demolition of Existing Dwelling: The existing dwelling located on proposed Parcel 1 shall be demolished, under a permit issued by Building and Safety, prior to final map recordation.
16. Archaeological Discovery: In the event archaeological remains are encountered during grading, work shall be stopped immediately or redirected until a Planning and Development-qualified archaeologist and Native American representative are retained by the applicant to evaluate the significance of the find pursuant to Phase 2 investigations of the County Archaeological Guidelines. If remains are found to be significant, they shall be subject to a Phase 3 mitigation program consistent with County Archaeological Guidelines and funded by the applicant. Residual impacts from implementation of this mitigation measure would be less than significant.

**Plan Requirements and Timing:** This condition shall be printed on all building and grading plans.

**Monitoring:** Planning and Development shall check plans prior to approval of Land Use Permits and shall spot check in the field.

17. Future Permit Neighbor Noticing: The applicant(s) for any future Land Use Permit(s) for structural development on any and all of the proposed parcels shall notify surrounding neighbors of said application. The applicant(s) shall notify, in writing and via certified mail, all property owners and occupants of parcels within 300' of the project site of Land Use Permit application. The notice shall include a full copy of the application including all plans in reduction. Each future Land Use Permit application to P&D shall be accompanied by a mailing list and associated return receipts as proof of notice as required.

## **STANDARD CONDITIONS FOR TENTATIVE PARCEL MAPS**

18. Prior to Recordation: Prior to recordation of the tentative map and subject to P&D approval as to form and content, the applicant shall include all of the conditions, agreements, and specific plans associated with or required by this project approval on a separate informational sheet to be recorded with the Parcel Map. All applicable conditions of the project shall be printed on grading and/or building plans and shall be graphically illustrated where feasible. If Land Use Permits are obtained prior to recordation, Tentative Map conditions will not apply retroactively to the previously issued Land Use Permit. For any subsequent development on any parcels created by the project, each set of plans accompanying a Land Use Permit shall contain these conditions.
19. Revisions: If the proposed parcel map is revised from the approved Tentative Map, or if changes to conditions are sought, approval shall be in the same manner as for the

originally approved tentative map.

20. Final Map Clearance: Two copies of the map to finalize the tentative map and required review fees in effect at the time shall be submitted to Planning and Development (P&D) for compliance review of P&D conditions before P&D will issue Parcel Map clearance to the County Surveyor. The map shall show statistics for net lot area (gross area less any public road right of way) and any open space.
21. Easements: Prior to recordation, public utility easements shall be provided at the locations and of widths required by the serving utilities that require easements. The subdivider shall submit to the County Surveyor a set of prints of the parcel map accompanied by a letter from each utility and water and sewer district serving the property stating that the easements shown thereon are acceptable (Chapter 21, Sec. 21-30; Ord. No. 2199, Sec. 13).
22. Expiration: The Tentative Map shall expire three years after approval or conditional approval by the final decisionmaker unless otherwise provided in the Subdivision Map Act, Government Code §66452.6.
23. Underground Utilities: All utilities shall be installed underground.
24. Road Naming: Prior to Tentative Tract Map recordation, the access road shall be officially named. The name for the access road shall be subject to separate County approval, including filing fees in effect at the time, as prescribed by the Road Naming Ordinance.

## **COUNTY RULES & REGULATIONS/LEGAL REQUIREMENTS**

25. Prior to Improvements: 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 Land Use and Building Permit from Planning and Development and Building and Safety. These Permits are required by ordinance and are necessary to ensure implementation of the conditions required by the Zoning Administrator.

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.

26. Departmental Conditions: Compliance with Departmental letters and conditions:
  - c. Fire Department memo. dated September 30, 2003.
  - d. County Surveyor's letter dated December 2, 2003.
  - e. Environmental Health Services memo. dated July 8, 2004.
  - f. Transportation Division memo. dated August 30, 2004.

- g. Parks Department memo. dated July 8, 2004.
  - h. Flood Control letter dated August 10, 2004.
  - i. Air Pollution Control District memo. dated September 25, 2003.
27. Building and Grading Plans: All applicable final conditions of approval (Zoning Administrator) 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.
28. Fees Required: Prior to recordation, the applicant shall pay all applicable P&D permit processing fees in full.
29. Indemnity: 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 Tentative Parcel Map. 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.
30. Legal Challenge: In the event that any condition imposing a fee, exaction, dedication or other 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 in the time period provided for in section 66499.37, 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 Zoning Administrator and no approval shall be issued unless substitute feasible conditions/measures are imposed.