



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

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

Department Name: Planning & Development
Department No.: 053
For Agenda Of: Set Hearing on 9/1/09
for 9/15/09
Placement: Departmental
Estimated Tme: 40 minutes on 9/15/09
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Dianne Black, Interim Director, 568-2086
Director(s) Planning and Development
Contact Info: Dave Ward, Deputy Director, 568-2520
Development Review Division– South County
SUBJECT: Andy & Jessica Brown Appeal of the Salentine Second Development Envelope Project

County Counsel Concurrence

As to form: Yes

Other Concurrence:

As to form: N/A

Auditor-Controller Concurrence

As to form: N/A

Supervisory District: 2nd

Recommended Actions:

Set hearing for the September 15, 2009 Departmental Agenda to consider Case No. 09APL-00000-00019 for the Andy & Jessica Brown Appeal of the County Planning Commission's approval of the Salentine Second Development Envelope Project (07RMM-00000-00001) (time estimate 40 minutes; 5 minute staff presentation):

On September 15, 2009, your Board's action should include the following:

1. Deny the appeal;
2. Adopt the required findings for the project contained in Attachment A of the June 19, 2009 County Planning Commission Action Letter (included as Attachment A of this board letter) including the CEQA findings;
3. Approve the Addendum to 87-ND-15 contained in Attachment D of the June 19, 2009 County Planning Commission staff report (included as Attachment B of this board letter), and adopt the mitigation monitoring program contained in the conditions of approval; and
4. Grant de novo approval of the project, Case No. 07RMM-00000-00001 subject to the conditions included as Attachment B of the June 19, 2009 County Planning Commission Action Letter (included as Attachment A of this board letter).

Project Description

The project on appeal is a Recorded Map Modification to allow the addition of a second Development Envelope of approximately 21,703 square feet to Parcel B (APN 077-030-025) of the previously approved and recorded Parcel Map 13,861. The existing Development Envelope located in the northwestern portion of the property would remain unchanged. The proposed new and existing Development Envelopes would contain all future structural development and associated grading, ground disturbance and construction activities (including construction staging, stockpiling, and washout areas). Future grading for driveways, utilities and drainage improvements would be necessary outside the Development Envelopes. Access to the site would continue to be from Franklin Ranch Road, an existing private roadway easement. The site would be served by the Goleta Water District, the County Fire Department and a private septic system. No grading would be necessary and no trees would be removed as part of the project. The parcel is currently vacant and no new structural development is proposed at this time.

Condition No. 7 of Parcel Map 13,861 would be revised as part of the project. Condition No. 7 states: “All grading shall be performed outside the rainy season during the relatively dry season from April 1st to November 30th. All areas disturbed during grading or development shall be stabilized with native grasses and shrubs immediately following disturbance.” This condition would be replaced with the County’s current standard condition which allows grading during the winter months with implementation of a Building & Safety approved Erosion and Sediment Control Plan and requires all exposed graded surfaces to be reseeded with ground cover vegetation to minimize erosion within 4 weeks of grading completion.

Background

At the County Planning Commissions’ hearing of June 17, 2009, the Commission took the following action: Commissioner Brown moved, seconded by Commissioner Valencia and carried by a vote of 4-0 (Commissioner Cooney absent) to: 1) Adopt the required findings for the project specified in Attachment A of the staff report, dated May 29, 2009, including the California Environmental Quality Act (CEQA) findings; 2) Approve the Addendum to Mitigated Negative Declaration 87-ND-15 contained in Attachment D of the staff report, dated May 29, 2009 and adopt the mitigation monitoring program contained in the conditions of approval; and 3) Approve the project, Case No. 07RMM-00000-00001 subject to the conditions included as Attachment B of the staff report, dated June 17, 2009 and as revised at the hearing of June 17, 2009. The approval was timely appealed by Andy and Jessica Brown on June 25, 2009 (See Appeal Letter included as Attachment C of this board letter).

Summary Text:

Appeal Issues & Staff Responses

The information contained in the following paragraphs identifies the four appeal issues presented by the appellants and follows with staff’s responses to each issue.

Appeal Issue: **Septic System**

“Inadequate septic/drywells continually daylight.”

Mr. Brown, the appellant, claims that drywell testing on the Salentine property causes water to “daylight” onto his property. However, Mr. Brown’s property contains an intermittent water seep of unknown origin making it difficult to distinguish between water generated by drywell testing from water generated by other sources. To verify that the water found on Mr. Brown’s property was not used in testing of the drywells on the Salentine property fluorescein dye and Boron isotope tracers were added to the test water on two separated occasions. No positive tests were noted on either testing occasion. The dye test and the tracer tests indicate that the water noted on Mr. Brown’s property did not originate from Mr. Salentine’s drywells.

Mr. Salentine has completed drywell performance testing on his property to the satisfaction of Environmental Health Services (EHS). Paul Jenzen of EHS has reviewed the drywell tests completed by Pacific Materials

Laboratory and issued a January 8, 2008 letter addressing the proposed project which states “The applicant has provided to Environmental Health Services drywell performance tests completed by Pacific Materials Laboratory that indicate an onsite wastewater treatment system could be constructed to serve a one or two bedroom house. Therefore, EHS has no recommended conditions.”

Because no development is proposed at this time and the applicant has demonstrated that onsite wastewater treatment is feasible to the satisfaction of EHS, no further testing or action is necessary at this time. Further wastewater system testing will be required by EHS at the time of application for a Land Use Permit for future residential development. A representative from EHS will be available at the September 15, 2009 hearing to answer questions from Board members.

Appeal Issue: Drainage

“Drainage as built by Salentine causes damage downhill. Drainage failed with no passive system”

The area has historically drained from west to east from the Salentine property over the Brown property and then into Franklin Creek. In 1999, the Browns brought in several thousand cubic yards of material and filled in the historic drainage channel to create a level area for a horse corral. As part of this fill operation, an underground culvert was installed to direct the historic stormwater flows underneath the corral area and into Franklin Creek. However, the culvert pipe was undersized and insufficient to carry the volume of water necessary during larger storm events. In an attempt to keep stormwater flows from overwhelming the undersized culvert, Mr. Salentine constructed a comprehensive drainage system in 2007 (Permit Nos. 07GRD-00000-00076, 08GRD-00000-00127 and 07LUP-00000-00298) on his property to divert stormwater around the Brown property and directly into Franklin Creek. The system was designed by Mike Simmons, registered civil engineer with input from the Cachuma Resource Conservation District (CRCD).

During two large storm events in January, 2008 (the first winter after construction of the comprehensive drainage system), a drop-inlet was plugged by tree leaves, sediment and other debris. The stormwater then flowed overland and caused the erosion the appellant is referring to. Several adjustments to the drainage system were undertaken by Mr. Salentine to correct this issue, including the installation of drop inlet guards (to catch any debris and prevent blockage) and seeding of the entire surrounding hillside to combat future erosion and siltation under the advice of Mike Simmons.

In addition to taking these steps, Mr. Salentine also contracted with the Cachuma Resource Conservation District (CRCD) for independent outside peer-review of his drainage improvements. District Civil Engineering Technician, Dale Gropp, after reviewing the site conditions and supporting engineering documentation, stated in a July 30, 2009 letter (included as Attachment F of this staff report) to Mr. Salentine:

“In spite of the problems encountered, I have a very high degree of confidence in the drainage and erosion control plan provided to you in 2007 by the CRCD and Mike Simmons. I have reviewed the design and stand by it as sound in concept and presentation. Further, I have revisited the hydrology study, and the design hydraulics to ensure compliance with the current standard hydraulic engineering principles and practices. It is my considered opinion that the design meets or exceeds these principles and practices.”

According to Mr. Simmons, it is typical for small problems such as blocked drop-inlets or minor siltation to occur during the first winter after large drainage systems are installed. Such problems are typically minor in nature and can be easily addressed. Once the property owner has a chance to correct the problem(s), they typically do not reoccur. Mike Simmons has stated (personal conversation, August, 2009) that the problems which caused the failure have been addressed and he does not expect similar issues with the system during the upcoming winter. Mr. Simmons will be present to answer grading/drainage-related questions at the September 15, 2009 Board of Supervisors hearing.

Appeal Issue: Grading

“Grading to create pad envelope (Development Envelope) against County policy and regulations”

The appellant asserts that illegal or unpermitted grading has occurred on the Salentine property to establish the existing flat area contained within the proposed Development Envelope. The appellant is factually incorrect. The previous property owner (Jeff James) received a Land Use Permit/Grading Permit No. 95-GR-020 and a corresponding Building Permit No. 95-0008 in January of 1995 for the placement of flood control debris (approximately 20,000 cubic yards of fill) after heavy rain events in the winter of 94/95 deposited large amounts of silt and debris in the Flood Control District’s basins. The grading plan approved with the permit clearly details the locations of fill placement including the area of the proposed Development Envelope. Additionally, Mr. Salentine was granted a Land Use Permit (07LUP-00000-00298) and Grading Permit (07GRD-00000-00076) in 2007 for the installation of a “buttress fill” to shore up the previously deposited flood control debris.

Grading Department staff has been working closely with past and current property owners (appellant, applicant and previous owner of applicant’s property) for their respective grading improvements since 1999. The current south coast Grading Inspector, Tony Bohnett is familiar with the past and current site conditions and will be present to answer grading/drainage-related questions at the September 15, 2009 Board of Supervisors hearing.

Appeal Issue: Goleta Water District Easement

“Pad (Development Envelope) on Goleta Water District easement without approval”

The appellant is factually incorrect. The Goleta Water District (GWD) easement is not located within the proposed Development Envelope but rather northeast of the Envelope. Approval of the project and future buildout of the proposed Envelope would not impact or affect the District’s ability to service the onsite waterline. As such, approval of the proposed project by the GWD is not necessary. (See Attachment D, Planning Commission-approved Site Plan)

Fiscal Analysis:

Budgeted: Yes

The appellant submitted payment of \$643 to the Clerk of the Board for the subject appeal. The estimated staff cost to process the appeal is approximately \$3,090 (20 planner hours). Permit revenues are budgeted in the Development Review Permits section within the Development Review South Division, on page D-308 of the adopted 2009-2010 fiscal year budget.

Staffing Impacts:

None

Special Instructions:

The Clerk of the Board shall publish a legal notice at least 10 days prior to the hearing on September 15, 2009. The notice shall appear in the Santa Barbara Daily Sound. The Clerk of the Board shall fulfill the noticing requirements. Mailing labels for the mailed notice are attached. A minute order and a copy of the notice and proof of publication shall be returned to Planning and Development, attention David Villalobos.

Attachments:

- A. County Planning Commission Action Letter dated June 19, 2009 (Includes the Proposed Final Findings and Conditions)
- B. County Planning Commission Staff Report dated June 17, 2009 (Includes the proposed Addendum to 87-ND-15)
- C. Brown Appeal Letter dated June 25, 2009
- D. Site Plan approved by County Planning Commission
- E. Environmental Health Services memo dated January 8, 2008
- F. Cachuma Resource Conservation District (CRCD) letter to Mr. Salentine dated July 30, 2009
- G. County Counsel Facilitation Report

Authored by:

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cc:

Anne Almy, Supervising Planner

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