

**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: 3/23/04
Department Name: P&D
Department No.: 053
Agenda Date: 4/6/04
Placement: Departmental
Estimate Time: 1 hour (10 min. staff presentation)
Continued Item: NO
If Yes, date from:

TO: Board of Supervisors

FROM: Val Alexeeff, Director
Planning and Development

STAFF CONTACT: Eric Engelbart, Planner (568-2011)
Anne Almy, Supervising Planner (568-2053)
Development Review South

SUBJECT: 03APL-00000-00017, Hagemann Appeal of the Planning Commission's Denial of Horse Corral (01CDP-00000-00158, 02APL-00000-00009), 482 Ortega Ridge Road, Summerland Area, APN 005-090-052 First Supervisorial District

Recommendation:

That the Board of Supervisors deny the appeal of Ute Hagemann, owner, of the Planning Commission's March 19, 2003 decision to deny the applicant's appeal of staff's February 25, 2002 denial of a previously constructed, unpermitted horse corral, and deny Coastal Development Permit application 01CDP-00000-00158.

Your Board's action should include the following:

1. Adopt the required findings for the project, specified in the Planning Commission Action Letter dated March 21, 2003.
2. Deny the appeal, upholding the Planning Commission's denial of Coastal Development Permit application 01CDP-00000-00158.
3. Deny the Coastal Development Permit 01CDP-00000-00158.

Alignment with Board Strategic Plan

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

Executive Summary and Discussion

On February 18, 1987, the Tentative Tract Map 13,675, a.k.a. the Reisner Tract Map, was approved by the Planning Commission in order to subdivide a 70 acre parcel into 11 parcels ranging in size from approximately 5 acres to 11 acres each. The parent parcel occurs near the headwaters of the Greenwell Creek watershed and supports a variety of natural plant associations including riparian, wetland, and coastal sage scrub; the site is partially underlain by Rincon Formation which consists of highly expansive clays with a high erosion rate that are prone to soil creep, slumping, and landslides. Portions of the underlying slopes on the project site exceed 30%, which compounds the potential for accelerated erosion when the soils are exposed to grading and development. In order to minimize environmental impacts associated with the subdivision, the applicants agreed to limit development to building envelopes that were recorded with the map.

In the summer of 2001, the owner of the subject parcel (lot 10 of TM 13,675) developed a portion of their parcel outside of the recorded development envelopes without any permits. More specifically, the applicants graded an approximately 7,500 sf portion of their property located in and adjacent to designated environmentally sensitive habitat (ESH) and riparian resources (wetland) in order to construct a horse corral and riding ring; the area drains directly into Greenwell Creek. As part of this development, the applicants completed approximately 300 cubic yards of grading. The applicants also extended and widened physical access across an existing easement to the corral area from Ortega Ridge Road. Shortly thereafter, several neighbors noticed this unpermitted development and reported the violation to the County. Upon investigating the complaint, County staff informed the applicant that the unpermitted development represented a zoning violation because it occurred outside of a designated building envelope and in the midst of environmentally sensitive habitat. Furthermore, the development increases drainage across exposed soils, accelerates siltation of Greenwell Creek, and carries animal waste directly into the coastal stream.

In response to the zoning violation, County staff directed the applicant to apply for a Coastal Development Permit in order to restore the site to its original condition. Instead, the applicants applied for a Coastal Development Permit in order to retroactively legalize all of the illegal development that they had carried out on site. On the basis that the development was inconsistent with County policies and the conditions of approval of the underlying tract map, the Coastal Development Permit was denied by County staff on February 26, 2002. On March 7, 2002, the applicants appealed staff's denial to the Planning Commission. The appeal was brought before the Planning Commission on March 19, 2003. The Planning Commission denied the appeal by a vote of 5-0, finding that the project was inconsistent with County Policies prohibiting development in ESH areas, and also with the conditions of the underlying map. The Planning Commission also encouraged the applicant to investigate the possibility of a recorded map modification to establish a building envelope in the area of the illegal development. On March 31, 2003, the applicant filed a timely appeal of the PC denial to your board.

Subsequent to the applicant's appeal of the Planning Commission denial, the applicant hired a private biologist to examine the site. Additionally, the County's staff biologist visited the site as well. Both biologists concluded that the project site is an inappropriate location for a horse corral, and that in its current configuration the corrals are causing significant damage to the surrounding environment and watershed (Rachel Tierney - personal communication, Fall 2003; Melissa Mooney 3/24/04 memo). The executive summary of the County biologist is attached hereto.

While P&D's biologist outlines a potential program to modify and allow for the corrals in their approximate current location, she confirms that such a program would not necessarily be successful in achieving compliance with County policies protecting ESH etc. (p5, memo from Mooney dated 3/24/04).

Given that the project is (1) inconsistent with Comprehensive Plan policies, (2) not in compliance with the Coastal Zoning Ordinance, (3) inconsistent with the Reisner Tract Map Conditions, (4) was completed without any permits or County oversight, (5) is causing environmental damage, and (6) abatement of environmental degradation through modification of the corrals and their operation in place is unlikely to succeed, staff recommends that the applicant's appeal be denied. Furthermore, to address the environmental damage caused by the illegal development, staff recommends that a restoration plan prepared by a County approved biologist be submitted to Planning and Development and upon approval, implemented in order to ensure that the removed vegetation will be reestablished and the natural contours of the site will be restored.

Mandates and Service Levels

Pursuant to the Article II Zoning Ordinance, a decision of the Planning Commission may be appealed to the Board of Supervisors by the applicant or an aggrieved person. The Zoning Ordinance also requires that the appellant state specifically in the appeal wherein the decision by the Planning Commission is not in accord with the provisions and purposes of the Article or wherein it is claimed that there was an error or an abuse of discretion by the Planning Commission. In this case, the appellant has appealed the decision of the Planning Commission to deny Case No. 02APL-00000-00009 and 01CDP-00000-00158 because of "New Material." No further explanation as to how both staff and the Planning Commission erred in their decisions was ever provided by the applicant. Additionally, no such "New Material" has been provided by the applicant.

Fiscal and Facilities Impacts

The applicant submitted a \$2,000 fee as part of their appeal. Appeal costs that exceed this \$2,000 fee are budgeted in the department's adopted 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 to the Board of Supervisors dated March 31, 2003
B) Planning Commission Staff Report, dated March 7, 2003
C) Planning Commission Action Letter, dated March 21, 2003
D) Memo from staff biologist, dated March 24, 2004
E) Public Comment Letters

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