



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: Public Works
Department No.: 054
For Agenda Of: 02/02/2010
Placement: Administrative
Estimated Time: 10 minutes
Continued Item: NO
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Director: Scott D. McGolpin, Public Works Director, Ext. 3010
Contact Info: Michael B. Emmons, Deputy Director, Ext. 3034
SUBJECT: Set a hearing date of February 16, 2010 for the purpose of conducting a public hearing of an appeal of the County Surveyors decision to deny issuing a Certificate of Compliance on APN 153-300-020 – Cule
Second Supervisorial District

County Counsel Concurrence:

As to form/legality: Yes

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

That the Board of Supervisors:

Take one of the following actions:

- 1) Uphold the County Surveyors decision to deny a Certificate of Compliance on APN 153-300-020 and direct the County Surveyor to initiate the process to file a Notice of Violation under Section 66499.36 of the California Government Code; or
- 2) Direct the County Surveyor to issue a Certificate of Compliance on APN 153-300-020

Summary:

On November 3, 2008, the County Surveyor denied issuing a Certificate of Compliance by letter for APN 153-300-020 based on the premise that the parcel did not comply with County Ordinance 786 at the time of parcel creation. On November 13, 2008, the County Clerk received an appeal to the decision of the County Surveyor from Ms. Socorro Cule. This request is to set a hearing date of February 16, 2010 for the Board of Supervisors to review the facts of this case and determine whether or not a Certificate of Compliance should be issued.

Background: APN 153-300-020 was created by a grant deed recorded in Book 2087 Page 1334 of Official Records of the County Recorder of the County of Santa Barbara on January 18, 1965. The County Surveyor has asserted that County Ordinance 786 was violated by the recording of this grant deed while the appellant argues that County Ordinance 791 was the operative subdivision law and therefore a Certificate of Compliance should be issued. There is conflicting language between these two

Ordinances during a period of time in the 1960's. Due to this conflict, the Board of Supervisors is being asked to determine whether or not it is appropriate for the County of Santa Barbara to issue a Certificate of Compliance for this parcel which was created during a time of overlapping in subdivision ordinances.

Attached is a Conditional Settlement Agreement and Release of All Claims which states that if your Board elects to issue Ms. Cule a Certificate of Compliance, she will dismiss her legal action against the County pursuant to its terms. As your Board may not properly contract away either its police power or its legislative authority, it retains the final authority to approve, modify or reject Ms. Cule's appeal seeking a Certificate of Compliance and may otherwise impose any condition or requirement it deems appropriate, including the use of the standard indemnification language which is set forth in the Conditional Settlement at paragraph 3.3. Your Board also retains the right to take, or refrain from taking, any regulatory action with respect to Ms. Cule's property in the future.

Fiscal and Facilities Impacts:

Budgeted: No

Staffing Impacts: N/A

Legal Positions: 0 **FTEs:** 0

Special Instructions:

If the Board of Supervisors upholds the decision of the County Surveyor, instruct the County Surveyor to begin proceedings to file a Notice of Violation in accordance with Section 66499.36 of the California Government Code. If the Board of Supervisors determines that a Certificate of Compliance must be issued, direct the County Surveyor to issue the Certificate of Compliance without fees at the earliest convenient time. A copy of the Board of Supervisor's Minute Order of Approval shall be sent to the County Surveyor's Office with one of the above instructions.

Attachments: (list all)

Vicinity Map – APN 153-300-020

Final Determination Letter – November 3, 2008

Appeal of denial of issuing Certificate of Compliance – November 13, 2008

Conditional Settlement Agreement – December 2008

Authored by: Michael B. Emmons

cc: Ms. Socorro Cule

Dennis A. Marshall, County Counsel