

**SANTA BARBARA COUNTY
BOARD AGENDA LETTER**



Clerk of the Board of Supervisors
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Santa Barbara, CA 93101
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Agenda Number:
Prepared on: 1/23/03
Department Name: P&D
Department No.: 053
Agenda Date: 2/11/03
Placement: Departmental
Estimate Time: 1 Hour
Continued Item: NO
If Yes, date from:

TO: Board of Supervisors

FROM: Steve DeCamp, Deputy Director Development Review North,
Planning and Development (P&D)

STAFF CONTACT: David Swenk, Planner III (934-6266)

SUBJECT: Hossli Tentative Parcel Map/Rezone (01TPM-00000-00018 / 01RZN-00000-00008)

Recommendation(s):

That the Board of Supervisors:

Accept the Planning Commission recommendation and staff recommendation regarding the request of Harrell Fletcher, agent, to consider Case No. 01TPM-00000-00018, for approval under County Code Chapter 21 to divide 39.26 acres into 2 parcels of 19.63 acres each in the 20-U and 40-U Zone Districts under Ordinance No. 661 and 01RZN-00000-00008, a rezone from Ordinance 661 to Article III, of the two agriculturally zoned parcels and take the following actions:

1. Adopt the Ordinance to rezone APN 131-220-004, amending the Inland Zoning Maps (identified as Board of Supervisors Exhibit Nos. 35.204.50.5), included as Attachment A (attached).
2. Adopt the required findings for the project specified in the Planning Commission Final Action Letter dated December 18, 2002 included as Attachment B (attached), including CEQA findings;
3. Approve the Negative Declaration, 02-ND-31, as adequate environmental review included in the Staff Report dated October 30, 2002 and included as Attachment C (attached); and
4. Approve the Tentative Parcel Map (Case Number 01TPM-00000-00018) subject to the conditions included in the Planning Commission Final Action Letter dated December 18, 2002 included as Attachment B (attached).

Alignment with Board Strategic Plan:

The recommendation(s) are primarily aligned with actions required by law or by routine business necessity.

Executive Summary and Discussion:

The project reviewed by the Planning Commission on December 11, 2002 requested a two-way lot split on an existing 39.26 acre parcel located at 3555 Tepusquet Road. The parcel is located in the Tepusquet Existing Developed Rural Neighborhood characterized by rural parcels ranging between 10 and 40 acres. The parcel's current zoning is under the antiquated 661 Ordinance and is bisected by 20 and 40 acre parcel sizes due to the parcel encompassing both sides of Tepusquet Road, the current zone boundary.

The applicant requests approval of a two-way lot split creating two 19.63 acre parcels, both of which would be considered built out due to two existing single family residences. One residence is permitted while the other is an illegally converted barn which would be validated as a result of this discretionary action. A zoning violation was issued regarding the barn that was illegally converted into a single family structure prior to the Hossli purchase of the property. In order to validate the single family home, the structure has been brought into conformance with county standards and will serve as the single family residence on the proposed parcel. The applicant has also proposed building envelopes to protect existing resources and no development was proposed with this application.

Concurrently with the lot split application, the applicant also seeks a rezone from 20-U and 40-U under Article 661 to AG-I-20 under the current Article III zoning ordinance over the entire parent parcel. The zoning designation of 20 acre minimum parcel size is consistent with uses prevalent in the area.

Land Use Development Policy 6

The current configuration of the parcel creates a situation where the overall parcel size is less than the minimum parcel size sought by the applicant. The zoning district calls for a minimum 20 acre parcel size where this application would create two 19.63 acre parcels. Under normal circumstances such a subdivision would not be consistent with the zoning ordinance. However, it has been discovered that historical inaccuracies have occurred in some geographical areas of the county where the original federal surveys were conducted creating the townships. Such inaccuracies were found in the Tepusquet areas and some parcels were afforded slightly less acreage than officially given.

Land Use Development Policy 6 (LUPD 6) was developed in the early 1980s to address these surveying errors so landowners not aware of this could be afforded fairness in land use policies. The policy allows for an adjustment of the minimal parcel sizes under specific criteria. In order to qualify for the adjustment appropriate findings are required to be met ensuring no privilege is extended to a landowner. Specifically the policy requires the following findings:

- 1. Discrepancy exists in the original federal survey and is identified.** This discrepancy has been identified in the Tepusquet area. Though the policy is County wide, the original reason for the Policy was to address the Tepusquet surveying errors.
- 2. The landowner is not aware of the discrepancy.** A Survey was conducted in 1986 of the township where the Hossli parcel is located. A County Counsel opinion was given in 1997 that determined the survey was not parcel specific. The Title Report of the Hossli Parcel characterizes the parcel as a

“Quarter-Quarter” Section meaning a full 40 acres so LUPD 6 would be applicable. When the Hosslis purchased the property in 1999, they examined the Title Report which reported to them they purchased a Quarter-Quarter section, i.e. 40 acres.

3. **The adjustment shall not constitute a grant of special privilege.** Township 10, where the Hossli parcel is located, has been identified as having numerous surveying errors. Applicability of LUPD 6 has been determined on other parcels in this area and, demonstrating all the requirements required under LUPD 6, other parcels may qualify as well.
4. **Circumstances warrant a granting of the adjustment.** The applicant was not aware of the error in acreage when the parcel was purchased in 1999. Their request for subdivision to a density similar to other parcels in the area is consistent with policy.

LUPD 6 is not construed to be a mechanism to allow for wide scale adjustments to parcel sizes if applicants desire subdivision and their parcel does not meet the minimum parcel size in the area. There is specific criteria that must be met before applicability of LUPD 6 can be determined.

Mandates and Service Levels:

Pursuant to Section 35-325.4 of Article III of Chapter 35 of the County Zoning Ordinance, the Board of Supervisors, after receiving recommendations from the Planning Commission, shall consider the rezone request and the Planning Commission recommendation at a public hearing for decision.

Pursuant to Section 21-6(c) of the Santa Barbara County Code (Subdivision Regulations), The Board of Supervisors shall review the tentative parcel map application concurrently with the rezone request. Section 21-6(c) states:

“When two or more discretionary applications are submitted that relate to the same project, pursuant to Chapter 21 or Chapter 35 of the Santa Barbara County code, and the applications would be under the separate jurisdictions of more than one decision maker, all applications shall be heard by the decision maker with the highest jurisdiction...”

If the Board of Supervisors is the decision maker on a Tentative Parcel Map due to a companion discretionary application(s), then either the Planning Commission or Zoning Administrator, which would otherwise have had jurisdiction over the Tentative Parcel Map, shall make an advisory recommendation to the Board of Supervisors.”

Pursuant to Government Code Sections 65355 and 65090, a notice shall be published in at least one newspaper of general circulation. Mailed notice required to property owners within 300 feet of the project, including the real property owners, project applicant, and agencies expected to provide essential services shall be done at least 10 days prior to the hearing (Government Code Section 65091).

Fiscal and Facilities Impacts:

The costs associated with processing of the rezones recommended for approval are billed to the General Fund per prior Board of Supervisor's direction.

Special Instructions:

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

Concurrence:

County Counsel

ATTACHMENTS:

- A. Ordinance to Rezone, 01RZN-00000-00008
- B. Planning Commission Action Letter including Findings and Conditions of Approval Dated December 18, 2002
- C. Staff Report to the Planing Commission dated October 30, 2002 including the Negative Declaration 02-ND-031.
- D. Staff Memo revising Staff Report dated November 13, 2002