



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
November 5, 2024, for
December 10, 2024
Placement: Departmental
Estimated Time: 47 minutes on
December 10, 2024
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Planning and Development
Lisa Plowman, Director, (805) 568-2086
Contact Info: Travis Seawards, Deputy Director, (805) 568-2518
SUBJECT: Cargasacchi Appeal, Case No. 24APL-00018, of the County Planning Commission Approval of the Blanco Grading for Access Road Improvements Project, Case No. 15LUP-00000-00072, Third Supervisorial District

County Counsel Concurrence

As to form: Yes

Other Concurrence: Select_Other

As to form: N/A

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

On November 5, 2024, set a hearing for December 10, 2024, to consider the appeal (Case No. 24APL-00018) of the County Planning Commission's approval of the Blanco Grading for Access Road Improvements project (Case No. 15LUP-00000-00072). The appeal was filed by John Cargasacchi.

On December 10, 2024, Staff recommends that your Board take the following actions to deny the appeal and uphold the County Planning Commission's approval of the Project:

- a) Deny the appeal, Case Number 24APL-00018;
- b) Make the required findings for approval of the project, Case No. 15LUP-00000-0072, included in Attachment 1 of this Board Agenda Letter, including California Environmental Quality Act (CEQA) findings;
- c) Determine the project is exempt from CEQA pursuant to State CEQA Guidelines Section 15304, as set forth in the Notice of Exemption included as Attachment 2 of this Board Agenda Letter; and

d) Grant *de novo* approval of the project, Case No. 15LUP-00000-00072.

Summary Text:

John Cargasacchi (hereinafter Appellant) requests a hearing to consider Case No. 24APL-00018, an appeal of the County Planning Commission’s decision to approve the Blanco Grading for Access Road Improvements project (Case No. 15LUP-00000-00072) (Project). The Project will allow construction of a private road within an easement area on the Appellant’s land (subject property). The Applicant is an easement holder under a private easement agreement recorded in 1990 that grants access rights through the project site to the Lakeview Estates subdivision.

On July 22, 2024, the Appellant filed a timely appeal of the County Planning Commission’s decision in compliance with Chapter 35.102 of the County Land Use and Development Code (LUDC). The Appellant asserts the following appeal issues:

1. The Project is inconsistent with the County’s Zoning Ordinance and Fire access standards;
2. The approval is based on error of law and gross abuse of discretion;
3. The Project does not comply with a private agreement (1990 Memorandum of Agreement (MOA));
4. There was lack of proper notice; and
5. The conditions of approval mandate use of the Appellant’s land outside the easement area.

The appeal issues and Staff’s responses are discussed in Section B of this Board Agenda Letter. Staff reviewed the appeal issues and finds they are without merit. Staff reviewed the Project and found that it is consistent with the Santa Barbara County Comprehensive Plan, all applicable sections of the LUDC, and made the required findings for approval (Section 35.82.110). The information included in the administrative record, including this Board Agenda Letter, supports denial of the appeal and approval of the Project.

Background:

There are two existing easements currently located on the subject property (see Figure 1 below, Site Vicinity Map) that grant access rights through the Appellant’s property to the Lakeview Estates subdivision that is located east of the subject property: 1) the 1968 easement, and 2) the 1990 MOA.

The 1968 easement contains an existing road that currently allows owners of the Lakeview Estates to access the Lakeview Estates subdivision from Sweeney Road. The Sweeney Road public right-of-way ends at the western side of the subject property and adjoins the 1968 easement. However, that road within the 1968 easement does not meet County Fire access requirements, and therefore no new development within the Lakeview Estates can be permitted without a road that meets County Fire access requirements.

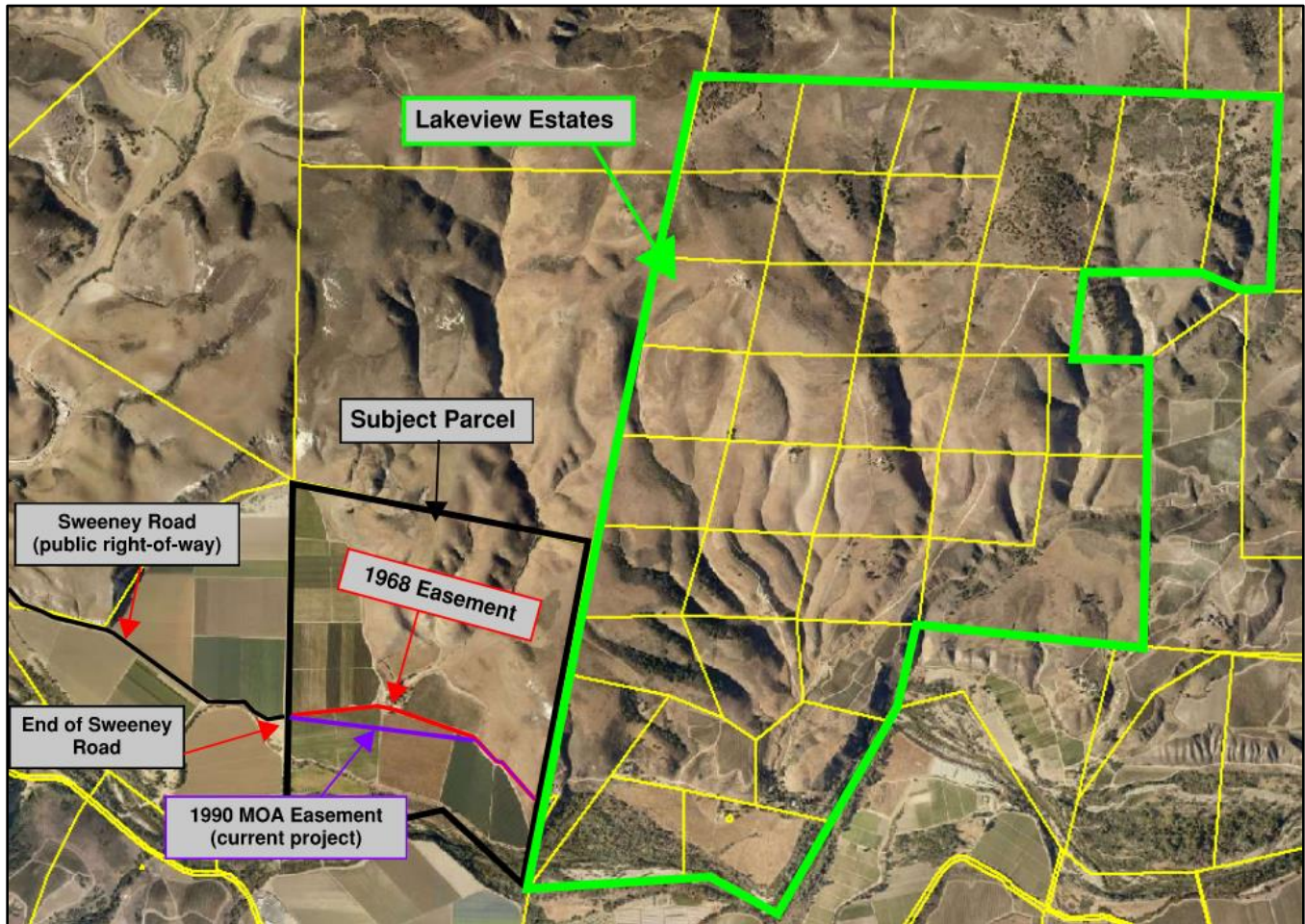


Figure 1. Site Vicinity Map

In 1990, the Cargasacchis (Appellant) and Lakeview Estates landowners signed a Memorandum of Agreement (1990 MOA) and Easement Location Document. The 1990 MOA is a private agreement that specifies the location of a new 30-foot-wide easement across the Cargasacchis' land, and requires the 1968 easement to be released upon completion of a new road within the 1990 MOA. The 1990 MOA allows the construction of a paved road across the new easement (1990 MOA), but allows Lakeview Estates landowners to continue using the road within the 1968 easement until the 1990 MOA road is completed.

On March 5, 2015, Henry Blanco applied for a Land Use Permit (Case No. 15LUP-00000-00072) to allow construction and improvements to the existing road over the 1968 easement to meet County Fire standards. The request for improvements to the existing road over the 1968 easement required the Applicant to show that the underlying property owner (Cargasacchis) had granted him "the authority to alter and improve" the road crossing the 1968 easement. The Cargasacchis refused to grant that authority, claiming that Henry Blanco instead had to construct the 1990 MOA road to meet County standards. Blanco sued the Cargasacchis for quiet title and declaratory relief. The trial court rejected Henry Blanco's claims, holding that the 1990 MOA road (depicted in purple in Figure 2 below, Subject Lot and Easements) must be the starting point for any future development, and that the 1968 easement (depicted in green in Figure 2) must be phased out and not given any continuing or expanded life.

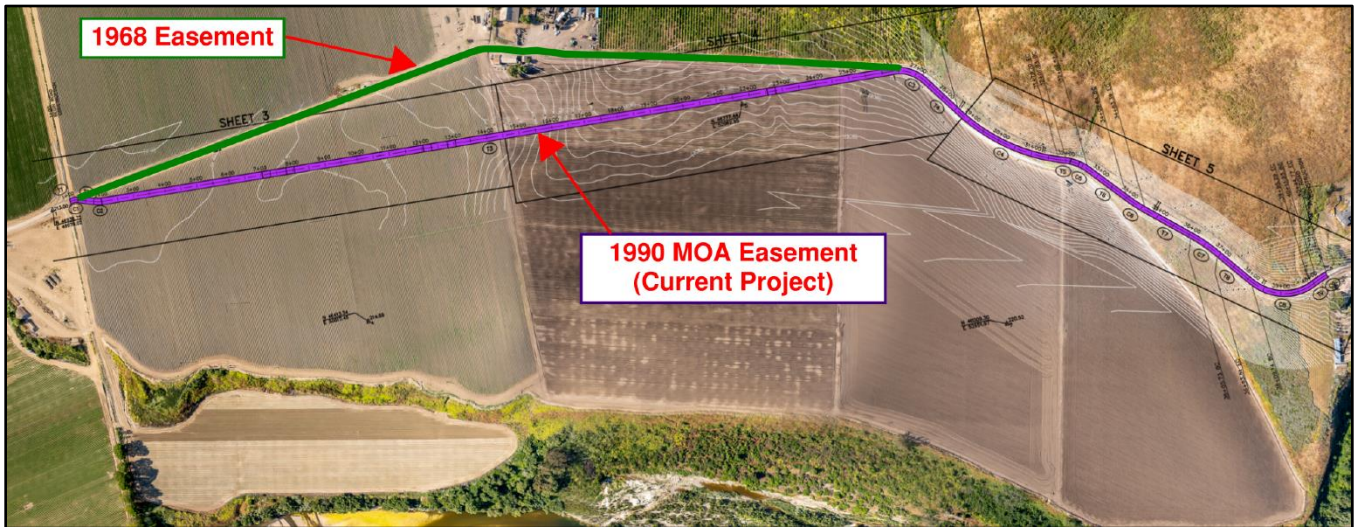


Figure 2. Subject Lot and Easements

Case No. 15LUP-00000-00072 was placed on hold while the civil litigation between the private parties was occurring. The trial court's decision was upheld by the Court of Appeal. The County was not a party to that litigation. On November 1, 2023, the Applicant paid outstanding fees and resubmitted revised plans under Case No. 15LUP-0000-00072. The revised plans eliminated the proposal for road improvements to the 1968 easement and instead included a proposed road for construction in the location authorized by the 1990 MOA. On January 29, 2024, the Director approved the Project. The Appellant filed a timely appeal (Case No. 24APL-00004). The County Planning Commission heard the appeal on July 10, 2024, and denied the appeal and approved the Project by a vote of 5 to 0, consistent with Staff's recommendation. On July 22, 2024, the Appellant filed a timely appeal of the County Planning Commission's decision.

A. Proposed Project:

The project is a request for a Land Use Permit to grade a private road, finished with a cement-treated aggregate base surface, within an easement over an existing agricultural field. The proposed road ranges in width from 20 feet (3,665 linear feet) to 16 feet through the hillside (280 linear feet). The road will span a total distance of 3,945 linear feet. Grading will include 1,157 cubic yards of cut and 864 cubic yards of fill. No trees are proposed for removal. Access to the project site is provided off of Sweeney Road. The property is a 346.16-acre parcel zoned AG-II-100, shown as Assessor's Parcel Number 099-150-016, and located at the terminus of Sweeney Road in the Lompoc area, Third Supervisorial District.

B. Appeal Issues and Staff Response

On July 22, 2024, the Appellant submitted their appeal package (Attachment 4). The Appellant identified five issues as the basis for the appeal. These appeal issues and Staff's analysis are provided in the following paragraphs.

Appeal Issue No. 1: Inconsistency with County’s Zoning Ordinance and Fire access standards

The Appellant contends that the Project is inconsistent with the County’s Zoning Ordinance and other applicable laws. The Appellant asserts that the proposed road is unpaved and that the plans do not comply with County and State Fire access road standards to serve 39 parcels.

Staff Response:

The Project complies with all applicable standards within the LUDC for AG-II-zoned parcels and is consistent with all applicable policies within the Comprehensive plan, as discussed in Sections 6.3 and 6.4 of the PC staff report dated July 2, 2024 (Attachment 8). The Project is a request to grade a private road with a cement-treated aggregate base surface that will span 3,945 linear feet within an easement over an existing agricultural field. Pursuant to the Allowed Land Uses and Permit Requirements for Agricultural Zones (Table 2-1) of the LUDC, roads are a permitted use in the AG-II Zone. The LUDC does not have a requirement for roads to be paved (nor does it define what a paved road is) and it does not provide a development standard for private road widths. However, the Project complies with Santa Barbara County Fire Department access and surface type standards. The proposed road consists of Class II Aggregate Base (95% relative compaction) and cement treated base which complies with Santa Barbara County Fire Department’s surface type requirements for roads. The Santa Barbara County Fire Department cleared the Project on January 17, 2024, and confirmed that the Project meets all of their requirements for Fire access (Attachment 6).

Appeal Issue No. 2: Approval is based on error of law and gross abuse of discretion

The Appellant contends that Henry Blanco (Applicant) does not qualify as an “applicant”, therefore, P&D erred in granting approval of the Project.

Staff Response:

P&D did not err in granting approval of the Project, and the Applicant, Henry Blanco, provided application materials that demonstrated he qualifies as an “Applicant”. Henry Blanco demonstrated that he is one of the easement holders under the 1990 MOA, and therefore Mr. Blanco is able to submit an application for the Project without additional permission from the underlying property owner (beyond the existing permission granted under the 1990 MOA, which is signed by the underlying property owner). LUDC Section 35.110 (Definitions) provides the following definitions for “Applicant” and “Owner”:

***Applicant:** A person who is filing an application requesting an action who: 1. Is the owner or lessee of property...*

***Owner:** The record owner or any person having possession and control of the subject property.*

Based on the LUDC definitions and the 1990 MOA easement, the Applicant has non-exclusive possession and control over the easement area as it relates to access, and thus authority to submit this application.

As shown on the site plans (Sheets 3 – 5, Attachment 5) prepared in coordination with a licensed surveyor, the proposed road is located within the easement as described under the terms of the 1990 MOA. Further, as discussed in the PC staff report dated July 2, 2024 (Attachment 8), and incorporated herein by reference, P&D determined that the Project complies with the LUDC and is consistent with the Comprehensive Plan.

Appeal Issue No. 3: Project does not comply with private agreement that specifies guidelines for a new road

The Appellant contends that the County and P&D are legally obligated to deal with the “private agreement” and must condition the project to comply with the guidelines of the 1990 MOA.

Staff Response:

The Project meets all applicable County requirements, and the County is not obligated to enforce private agreements, which are a civil matter not adjudicated by the County. Although the Applicant may be legally obligated to comply with the terms of the 1990 MOA, P&D is not legally obligated to condition the Project to comply with the terms of the 1990 MOA and instead is required to analyze consistency with County adopted policies and ordinance regulations. As stated in previous appeal issues, and as documented in the Project Plans (Attachment 4) and the PC staff report dated July 2, 2024 (Attachment 8), the Project is consistent with policies that require adequate services, hillside and watershed protection, and prevention of degradation of groundwater resources, and meets the required findings for approval (Attachment 1) of a Land Use Permit (LUDC Section 35.82.110).

Appeal Issue No. 4: Lack of proper notice.

The Appellant contends that other easement holders weren't notified of the Project. The Appellant contends that co-easement owners did not receive timely notice of the Planning Commission hearing.

Staff Response:

The Director's approval of the Land Use Permit and the subsequent Planning Commission's *de novo* hearing to review the appeal were appropriately noticed in accordance with LUDC Section 35.106 (Noticing and Public Hearings). Pursuant to Section 35.106.050 of the LUDC, mailed notices of the Land Use Permit were sent on January 10, 2024, to the Appellant's property (APN 099-150-016) and property owners within 300 feet of the subject property. The Department satisfies this requirement by mailing notices to addresses registered through the Assessor's Office as the owner of each applicable assessor's parcel number. Additionally, a placard was posted on-site on January 9, 2024.

Mailed notices of the Planning Commission hearing were sent on June 26, 2024, to the Appellant's property (APN 099-150-016) and property owners within 300 feet of the subject property. Pursuant to Section 35.106.020 (Notice of Public Hearing and Review Authority Action) of the LUDC, the requirement for noticing a public hearing is mailing the owner of the subject lot and owners of property located within a 300-foot radius of the exterior boundaries of the subject lot. Again, mailed notices were sent to addresses registered through the Assessor's Office as the owner of an assessor's parcel number.

Appeal Issue No. 5: Project mandates use of Appellant's land outside easement area.

The Appellant contends that the Project, as conditioned, appears to mandate use of the Appellant's land outside the easement area.

Staff Response:

The Project does not mandate use of the Appellant's land outside the 1990 MOA easement area. As shown on the site plans (Attachment 5), the proposed private road is located within the boundaries of the 1990 MOA easement. The Equipment Storage-Construction condition requires the Applicant to designate a construction equipment filling and storage area to contain spills, facilitate clean-up and proper disposal,

and prevent contamination from discharging into waterbodies, but it does not state that placement of the equipment filling and storage area is permitted on the Appellant's land outside the 1990 MOA easement area. In response to the Appellant's concern, Staff previously updated the condition (Condition No. 7, Attachment 2) prior to the July 10, 2024, Planning Commission hearing, to specify that the equipment storage area must be located within the 1990 MOA easement area.

Summary:

The Project, which is a request to grade a private road within an easement over an existing agricultural field in an AG-II Zone, is consistent with the Santa Barbara County Comprehensive Plan and all applicable sections of the LUDC. As an easement holder, the Applicant has authority to submit an application and the County has discretion to process and permit the application. As discussed in the PC staff report dated July 2, 2024 (Attachment 8), roads are a permitted use in the AG-II Zone and the required findings for approval of a Land Use Permit can be made (LUDC Section 35.82.110).

Fiscal and Facilities Impacts:

Budgeted: Yes

Fiscal Analysis:

Total costs for processing the appeal are approximately 40 hours, which equates to \$11,680.00. The costs for processing appeals are partially offset by a General Fund subsidy in Planning and Development's adopted budget. Funding for processing these appeals is budgeted in the Planning and Development Department's Permitting Budget Program, as shown on Page 317 of the County of Santa Barbara Fiscal Year (FY) 2024-25 Adopted Budget.

Special Instructions:

The Clerk of the Board shall publish a legal notice in the *Lompoc Record* at least 10 days prior to the hearing of December 10, 2024. The Clerk of the Board shall also fulfill mailed noticing requirements. The Clerk of the Board shall forward the minute order of the hearing as well as a copy of the notice and proof of publication to the Planning and Development Department, Hearing Support, Attention: Kevin De Los Santos.

Attachments:

1. Findings
2. Land Use Permit with Conditions of Approval
3. CEQA Notice of Exemption
4. Appeal Application
5. Project Plans
6. County Fire Clearance
7. Planning Commission Action Letter, dated July 12, 2024
8. Planning Commission Staff Report, dated July 2, 2024

Cargasacchi Appeal of Blanco Grading for Access Road Improvements (Case No. 15LUP-00000-00072)

Case No. 24APL-00018

Hearing Date: December 10, 2024

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Authored by:

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Development Review Division, Planning and Development Department