

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: August 21, 2006
Department Name: P&D
Department No.: 053
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Continued Item: NO
If Yes, date from:
Document File
Name:

TO: Board of Supervisors

FROM: **John Baker, Director**
Planning and Development

STAFF **Mark Walter, Planner**
CONTACT: 568-2852

SUBJECT: **Accept a Grant of Open Space Easement from John Leshner and Christina Liao (“Grantors”) to the County of Santa Barbara (“Grantee”) for portions of Assessor’s Parcel Number 155-220-010 in the Toro Canyon Area, First Supervisorial District**

Recommendation(s):

That the Board of Supervisors:

- A. Adopt the resolution of findings (Attachment A) accepting and approving the Grant of Open Space Easement (Exhibit A1 to the resolution).
- B. Authorize the Chair to sign the resolutions and the certificate of acceptance for the Grant of Open Space Easement and direct their recordation.

Alignment with Board Strategic Plan:

The recommendation is primarily aligned with Goal No. 5. A High Quality of Life for All Residents.

Executive Summary and Discussion:

Background

On April 21, 1993, the Santa Barbara County Planning Commission approved case number TPM 14,251, approving the subdivision of the subject 198.47 acre lot into two parcels of 38 and 160.47 acres. Consistency with Environmentally Sensitive Habitat policies was addressed, in part, by the proposed protection of a portion of the project site via a Conservation Easement. The primary purpose of the Conservation Easement was to protect sensitive scrub oak habitat. As a condition of the Commission's approval, the applicant was required to dedicate the proposed Conservation Easement to the County prior to land use clearance. The property owners have made application for a Land Use Permit for the subject parcel, and need to dedicate the proposed easement to satisfy this condition. Condition of approval # 7 reads as follows:

*A Conservation Easement shall be recorded and submitted for RMD approval and County acceptance prior to land use clearance. This easement area shall include the area designated in the approved Habitat Restoration Program for restoration and preservation. Other potential locations of the preservation area shall be submitted to RMD for approval as part of approval of the Habitat Restoration Plan. **Monitoring:** RMD shall review and approve the Conservation Easement agreement and its location on the parcel map prior to land use clearance.*

Because dedication of the easement was required as a condition of the County's approval of TPM 14,251, an Open Space Easement, rather than a Conservation Easement, is the appropriate processing instrument.

Procedures

Section 51057 of the Government code states:

“The governing body of the city or county shall not accept any grant of open-space easement until the matter has first been referred to the city or county planning department or Planning Commission. Within 30 days after receiving the proposal to accept a grant of open-space easement, the planning department or Planning Commission shall submit its report to the governing body. The governing body may extend the time for submitting such a report of an additional period not exceeding 30 days. The report shall contain a statement that the proposal is or, is not, consistent with the General Plan of the jurisdiction.”

Through the imposition of the condition requiring the open space easement, the Planning Commission recommended that the Board of Supervisors accept the Grant of Open Space Easement pursuant to the findings contained in Section X of the Staff Report dated April 21, 1993 and adopted in the Planning Commission Action letter of April 23, 1993 (Attachment B),

incorporated herein by reference. The proposed Grant of Open Space Easement was received by Planning and Development on August 14, 2006 and is forwarded to the Board of Supervisors as part of this Board Agenda letter (Attachment A-1).

Findings

The following findings are required by the County to accept the Open Space Easement per Section 51084 of the Government Code:

“No grant of an Open Space Easement shall be accepted or approved by a county or city, unless the governing body, by resolution finds:

- (a) That the preservation of the land as open space is consistent with the general plan of the county or city; and
- (b) That the preservation of the land as open space is in the best interest of the county or city and specifically because one or more of the following reasons exist:
 - (1) That the land is essentially unimproved and if retained in its natural state has either scenic value to the public, or is valuable as a watershed or as a wildlife preserve, and the instrument contains appropriate conveyances to that end.
 - (2) It is in the public interest that the land be retained as open space because such land either will add to the amenities of living in neighboring urbanized areas or will help preserve the rural character of the area in which the land is located.
 - (3) The public interest will otherwise be served in a manner recited in the resolution and consistent with the purposes of this Final Development Plan and Section 8 of Article XIII of the constitution of the State of California.

The resolution of the governing body shall establish a conclusive presumption that the conditions set forth in subdivision (a) and (b) have been satisfied.”

Preservation of the open space would be consistent with the County’s Comprehensive Plan including the Toro Canyon Plan, as discussed in the findings of approval for TPM 14,251. The preservation of the land as open space is in the best interest of the county and specifically because preservation of this open space would set aside an important scrub oak habitat area designated as environmentally sensitive habitat, and, in its unimproved state, has scenic value and will preserve the rural character of the surrounding area while providing for the preservation of the natural habitat of a sensitive species. The instrument contains covenants declaring the reasons supporting reservation of the open space easement and restricting use and development of the easement area.

Mandates and Service Levels:

The acceptance of the Open Space Easement will not affect County levels of service.

Fiscal and Facilities Impacts:

The County of Santa Barbara is not obliged to maintain, improve, or otherwise expend funds in connection with the Grant of Open Space Easement. Costs for preparation of the Grant of Open Space Easement are borne by the applicant.

Special Instructions:

Clerk of the Board will forward the executed documents to the County Clerk for recordation. Clerk of the Board will also forward a copy of the executed documents to Mark Walter, Planner in the County Planning and Development Department.

Concurrence: County Counsel

ATTACHMENTS:

- A Board Resolution for the Open Space Easement
 - Exhibit A1 Grant of Open Space Easement (including legal descriptions and exhibits)

 - B Planning Commission Action Letter & Staff Report Findings (Section X) for Tentative Parcel Map 14,251
- Prepared by: Mark Walter, (ext. 2852)
Planning and Development Department
Development Review Division South

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ATTACHMENT A

RESOLUTION OF THE BOARD OF SUPERVISORS COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

IN THE MATTER OF APPROVING AND ACCEPTING
A GRANT OF OPEN SPACE EASEMENT
ON A PORTION OF APN 155-220-010

)RESOLUTION NO.
)CASE NOS. TPM 14,251;
) & 04LUP-00000-01213

WITH REFERENCE TO THE FOLLOWING:

- A. Grantor is the owner and applicant for development approvals on certain real property, located in the unincorporated area of the County of Santa Barbara, commonly known as 660 Toro Canyon Park Road, Santa Barbara, CA (hereinafter “The Property”).
- B. Grantor has applied for a Land Use Permit for The Property which was created by the County under a Tentative Parcel Map (TPM 14,251) and is subject to the conditions contained therein.
- C. A Negative Declaration (93-ND-02) was prepared for the Tentative Parcel Map which concluded that the Scrub Oak Habitat on the subject parcel constitutes environmentally sensitive habitat.
- D. The Negative Declaration concluded that any potential impacts the project could have on the Scrub Oak Habitat could feasibly be mitigated, in whole or in part, through the preservation of this habitat in a substantially undisturbed natural state.
- E. Grantor and the County desire to protect and preserve the Scrub Oak Habitat by the dedication to the County of an Open Space Easement, attached as Exhibit A1.
- F. It is now deemed in the interest of the orderly development of the County and important to the preservation of the health, safety, and general welfare of the residents of said County to approve the Grant of Open Space Easement.
- G. The Planning Commission heard and considered the evidence regarding the consistency of the offer of the grant of easement with the County’s General Plan, during consideration of the Tentative Parcel Map.
- H. In conditionally approving the Tentative Parcel Map, with the required condition that an easement shall be dedicated to the County which would protect the Scrub Oak Habitat, the Planning Commission recommends that the Board can make the findings required by Government Code Section 51084 to accept the Open Space Easement.

I. The Board makes the following findings as required by Government Code Section 51084:

1. That the preservation of the land as open space is consistent with the Comprehensive Plan and the Toro Canyon Plan of the County.
2. The portion of the property subject to an open space easement is essentially unimproved and if retained in its natural state is valuable as Scrub Oak Habitat and the Grant of Open Space Easement contains appropriate covenants to that end.

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

1. The above restrictions are true and correct;
2. Pursuant to the provisions of Section 51084 of the Government Code, the above described findings are made and the Grant of Open Space Easement is approved and accepted; and
3. Pursuant to Government Code Section 51080 *et. seq.*, the Chair of the Board of Supervisors and the Clerk of this Board are hereby authorized and directed to sign and certify all map, documents, and other materials in accordance with this resolution to show the above mentioned action by the Board.

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this ____ day of _____ 2006, by the following vote:

AYES:

NOES:

ABSENT:

Chair, Board of Supervisors

ATTEST:

Michael F. Brown
Clerk of the Board of Supervisors

By: _____
Deputy Clerk-Recorder

APPROVED AS TO FORM:

STEPHEN SHANE STARK
County Counsel

By: _____
Deputy County Counsel

EXHIBIT A1
GRANT OF OPEN SPACE EASEMENT
WITH ATTACHED EXHIBITS:

ATTACHMENT B

STAFF REPORT FINDINGS (SECTION X) AND PLANNING COMMISSION ACTION
LETTER

