



Office of County Counsel  
MEMORANDUM

Date: March 22, 2004  
To: Board of Supervisors  
From: Alan L. Seltzer, Chief Assistant  
Re: Timmons Tentative Parcel Map Appeal  
Case No: 01TPM-00000-00003

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On March 9, 2004, at P&D's Foster Road offices, a facilitation meeting in the above referenced appeal took place. Jack Brady, Michelle Vander Meulen, and Cheryl Miller appeared for appellants. Ray Gonzales and Ron Chappell appeared for the applicants. David Swenk of P&D also participated.

Mr. Brady first explained the basis for the appeal. Jack Brady and Michelle Vander Meulen own the adjacent down slope parcel to the southwest (APN-105-010-031). Ms. Miller owns parcel 033 directly south of the project parcel. Appellants are concerned that the Zoning Administrator's decision allows development of the parcels with private septic systems and without adequate flood and erosion control measures imposed at the subdivision stage. They brought pictures of the erosion that occurred in 1998 after alleged illegal grading by a prior owner of the subject parcel. As discussed below, the parties addressed each issue and appear to have reached a consensus recommendation to resolve this appeal before your Board.

1. Sewage Disposal

Appellants' first issue was that the Zoning Administrator's decision was inconsistent in that his findings indicated the project would be served by the Laguna County Sanitation District public sewer system, while the conditions of approval incorporated a May 20, 2002, Public Health Department letter indicating a septic system could be approved. Mr. Swenk stated that the Zoning Administrator's decision had the wrong Public Health Department letter attached. Instead, he clarified that the correct Public Health Department condition letter was dated November 18, 2003, and required a "Can and Will Serve" letter from the Laguna County Sanitation District before parcel map recordation. The parties agreed that submittal of the appropriate Public Health Department letter as a condition of approval by your Board would resolve this issue.

2. Flood and Erosion Control

Appellants presented pictures and described extensive erosion after a previous property owner graded the property and left uncompacted fill on the hillside. Because of the history of erosion and runoff onto parcel 031, owned by appellants Brady and Vander Meulen, appellants

contended that standard Flood Control conditions of approval were inadequate to protect adjacent parcels. Appellants were concerned that if erosion issues were not addressed in advance of parcel map recordation, subsequent lot purchasers would not be able to adequately mitigate impacts on their own. They pointed out that no development plan was required for the lot split, and that subsequent purchasers would have to separately address Flood Control issues when constructing separate homes on separate lots.

Appellants argued that flood and erosion control measures should be required before the lot split and not after, when each house was being developed, and that the applicant should be required to show that there will be no increased discharge in drainage as a result of the foreseeable development of the two lots. They requested than an engineering solution to deal with uncompacted fill be approved before parcel map recordation. They pointed out that a previous plan for development of the subject property showed the lower parcel as a retention basin. Accordingly, they were concerned that two homes could not be fit onto the property with adequate retention facilities.

Mr. Chappell stated that he would be governed by the Flood Control standard conditions, which the parties reviewed. Mr. Chappell agreed that a Flood Control plan prepared by a certified professional and acceptable to Flood Control would be required prior to recordation. Appellants requested that any plan identify the full scope of ministerial development allowed on the proposed two parcels, including second units.

At the end of the first facilitation meeting, the parties agreed to meet again after reviewing the attached standard Flood Control conditions and determining whether compliance with them would adequately address Flood Control and erosion issues for the lot split.

On March 15, the parties met again. It was agreed that addition of the following two conditions, if accepted by your Board, could resolve this second issue on appeal. The first proposed condition would provide notice to appellants of the submittal of the grading/drainage plan:

1. Applicant shall give written notice to owners of parcel 31 and 33 that he has submitted preliminary grading/drainage plans for review and approval by P&D and Flood Control District to comply with Flood Control standard conditions. Applicant shall submit proof of notice prior to recordation.

The second proposed condition would require a drainage plan before recordation:

2. Applicant shall submit grading and drainage plan. **Plan requirements/timing:** Prior to map recordation, applicant shall submit a preliminary grading/drainage plan for review and approval by P&D and Flood Control District. The plan shall demonstrate that there will be no net rate of increase in runoff onto adjacent parcels from subdivision development in excess of current conditions or, if there is, that adequate mitigation measures to protect adjacent parcels shall be implemented.

The parties ended the March 15 facilitation with apparent agreement as to these conditions and that the matter be heard by your Board at the April 13, 2004 Board meeting.