



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: October 21, 2014
Placement: Set hearing on 10/21/14
for 11/4/14
Estimated Tme: 30 Minutes on 11/4/14
Continued Item: No
**If Yes, date
from:**
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Director: Glenn Russell, Ph.D., Director, 568-2085
Contact Info: Alice McCurdy, Deputy Director, 568-2518
SUBJECT: **Set Hearing to Consider the Appeal (Case No. 14APL-00000-000022) of the Planning Commission's Approval of the Walker Single Family Dwelling Demolition and Rebuild (Case No. 13CDH-00000-00024), First Supervisorial District**

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence: N/A

Recommended Actions:

On October 21, 2014, set a hearing for November 4, 2014, to consider Case No 14APL-00000-00022, appeal filed by Antonia Robertson and Laurence Dworet, of the County Planning Commission's August 27, 2014 *de novo* approval of the Walker Single Family Dwelling Demolition and Rebuild, Case No. 13CDH-00000-00024. The project site is located at 454 Toro Canyon Road in the Toro Canyon Area of the First Supervisorial District.

On November 4, 2014, staff recommends that your Board take the following actions:

1. Deny the appeal, Case No. 14APL-00000-00022;
2. Make the required findings for approval of the Coastal Development Permit with hearing (Case No. 13CDH-00000-00024) included as Attachment 1;

3. Determine that the project is exempt from CEQA pursuant to CEQA Guidelines Section 15301 and 15303. The Notice of Exemption is included as Attachment 3; and
4. Approve the project, Case No. 13CDH-00000-00024, thereby affirming *de novo* the decision of the Planning Commission, subject to the conditions included in Attachment 2.

Alternatively, refer back to staff if your Board takes other than the recommended action for appropriate findings and, if necessary, conditions of approval.

Summary:

The proposed project, a request for a Coastal Development Permit, with hearing, is located at 454 Toro Canyon Road in the Toro Canyon Area. The subject lot is zoned 1-E-1 and, at 1.14 acres, is conforming as to size. The subject lot is currently developed with a two-story single family dwelling (3,972 gross sq. ft.), detached garage (530 gross sq. ft.) and a swimming pool. The project includes demolition of the existing single-family dwelling and detached garage. The project also includes the construction of a new two-story single-family dwelling (5,344 gross sq. ft.), as well as the construction of a new detached garage (1,023 gross sq. ft.) with a guesthouse (825 gross sq. ft.) above. Construction of the proposed development would be in the same general footprint of existing development. The existing swimming pool and all existing landscaping would remain. Mapped Environmentally Sensitive Habitat (Riparian Corridor/Oak Tree Canopy) is located on the subject lot, however all new development would be located outside of the 50-foot buffer applied as a standard to riparian corridors in urban areas. No protected trees will be removed as a part of the project (though one six inch palm tree and one six inch ficus tree will be removed). Approximately 855 cubic yards of cut and 33 cubic yards of fill are required. The parcel will continue to be served by the Montecito Water District, a private septic system, and the Carpinteria-Summerland Fire District.

Background:

On April 7, 2014 the project (Case No. 13CDH-00000-00024), was approved by the Zoning Administrator. On April 7, 2014, Mr. Dworet and Ms. Robertson (who live at 475 Toro Canyon Road) filed an appeal of the Zoning Administrator's decision (Case No. 14APL-00000-00009) to the Planning Commission. On August 27, 2014, the Planning Commission voted 3-1 (with Commissioner Blough absent and Commissioner Brown voting to uphold the appeal) to deny the appeal (Case No. 14APL-00000-00009) and approve the project. On August 29, 2014, Mr. Dworet and Ms. Robinson filed an appeal of the Planning Commission's decision to the Board of Supervisors.

The SBAR reviewed the project on June 21, 2013, September 6, 2013, July 11, 2014, and July 25, 2014. Attachment E of Attachment 6 (Planning Commission Staff Report, dated August 7, 2014) contains the approved minutes from these meetings. A chronological account of the project's background leading up to the project's Board of Supervisor's hearing scheduled for November 4, 2014 is provided below.

On June 21, 2013, the project was conceptually reviewed by SBAR. SBAR commented that the mass, bulk and scale of the project were appropriate and that the "drawings look great". The remaining comments focused on the architectural design and style of the project and the project was asked to return for further conceptual review.

On September 6, 2013 the project received further conceptual review by SBAR. SBAR commented on the architectural design of the project (e.g., to thicken walls around windows, consider omitting stone coining around windows, restudy junction of stair tower with roof). The applicant was told to return for preliminary approval following the Zoning Administrator's (ZA) action. SBAR had no further comments regarding the mass, bulk and scale of the project.

On April 7, 2014, the project was heard and approved by the ZA. The same day, Mr. Dworet and Ms. Robertson (both of whom live at 475 Toro Canyon Road) filed an appeal of the ZA's decision to the Planning Commission (Attachment D of Attachment 6). The appeal stated that, based solely upon the square footage of the proposed development, the project is too large and, thus, is incompatible with the surrounding neighborhood. The appeal further contends the project conflicts with the Toro Canyon Plan, stating that the project is incompatible with the surrounding neighborhood. No specific policies from the Toro Canyon Plan are cited by the appellants. Aside from the square footage of the proposed project, the appeal raised no other concerns (i.e., impacts to private views or loss of privacy).

In order to avoid a scenario in which appeal of the CDH was resolved, only to have SBAR's preliminary approval then appealed, the project returned to SBAR on July 11, 2014 for preliminary approval. SBAR did not comment on the mass, bulk and scale of the project. Instead, SBAR's comments focused on design elements of numerous elevations and the applicant was told to return for further preliminary review.

On July 25, 2014 the applicant returned for further preliminary review and was granted preliminary approval by SBAR. SBAR commented that the project is an improvement over existing conditions, the project's additional size will not cause visual impacts due to it being shielded by vegetative screening from public view, and that the size, bulk and scale are compatible with the neighborhood. No appeal of SBAR's preliminary approval was filed.

On August 27, 2014, the Planning Commission acted to deny the appeal and approved the project, *de novo*. As part of its approval, the Planning Commission added Condition of Approval 21 (Planning Commission Action Letter, Attachment 5), requiring that landscaping to screen the house from Toro Canyon Road shall be maintained and replaced as necessary and in perpetuity by the owner/applicant. On August 29, 2014, the appellants filed an appeal of the Planning Commission's decision to the Board of Supervisors. The appeal issues listed in the application (Attachment 4) are the same as those that were considered by the Planning Commission. According to Article II, Section 35-182.5.C, hearings on appeal to the Board of Supervisors shall be *de novo*.

Appellant Issues and Staff Responses:

The appeal application and letter submitted to the Board of Supervisors (Attachment 4) contend that the proposed project is not in character with the neighborhood and, thus, is inconsistent with the Toro Canyon Plan. The appeal letter does not specify in what manner the proposed project is incompatible with the surrounding neighborhood, nor does the letter cite specific policies from the Toro Canyon Plan. However, in the appeal application and letter to the Planning Commission (Attachment D of Attachment 6), the appellants contend that it is solely the size of the proposed project in terms of square footage that makes the project incompatible with the surrounding neighborhood and, thus, inconsistent with the Toro Canyon Plan. In their appeal letter to the Planning Commission, the appellants further contend that the size of the project is inappropriate considering the current drought conditions; and that the existing landscaping that screens the

project from Toro Canyon Road and the surrounding parcels could change, thereby making the project significantly more visible in the future. Staff has addressed, herein, issues raised in both the appeal letters submitted to the Board of Supervisors and the Planning Commission.

The appellants' appeal issues have been summarized below and are followed by staff's response.

Issue: Neighborhood Compatibility

The appellants contend that the size of the proposed development is incompatible with the neighborhood and, thus, the Toro Canyon Plan. No specific policies of the Toro Canyon Plan are referenced in the appeal. The appellants' letter includes data compiled on the square footage of existing development on 28 parcels surrounding the subject lot. According to the appellants' calculations, the average size of a dwelling located on the 28 lots examined is 2,837 sq. ft., and the median size 2,664 sq. ft. (these figures were not defined as net or gross). Additionally, the appellants contend that the vegetative screening that currently exists on the project site may change in the future, thereby making the purported incompatibility of the project more visible.

Staff Response: The Toro Canyon Plan contains the following policy addressing compatibility of development with the surrounding area:

Policy VIS-TC-2: Development shall be sited and designed to be compatible with the rural and semi-rural character of the area, minimize impact on open space, and avoid destruction of significant natural resources.

The Toro Canyon Plan does not contain design guidelines with specific recommendations limiting the size of proposed development (such as floor area ratio guidelines, for instance). Accordingly, the Toro Canyon Plan does not specifically limit the size of proposed development.

The project is located within the Torito Existing Developed Rural Neighborhood (EDRN). Staff conducted a neighborhood study addressing development within the Torito EDRN. Data were collected from the records of the County Assessor's Office, which provided the square footage (gross) of dwellings for each parcel. Records from the County Assessor's Office do not provide figures regarding the size of accessory structures. As used in the following response from staff, "neighborhood" means the 47 residentially developed lots within the Torito EDRN.

The neighborhood surrounding the project site is comprised of parcels ranging from approximately 1.0 to 2.83 acres in size. The mean size of a dwelling within the neighborhood is 2,591 gross square feet. The median size of a dwelling within the neighborhood is 2,576 gross square feet. The neighborhood includes single family dwellings ranging from approximately 876 to 7,006 gross square feet in size. The subject lot is a 1.14 acre parcel, on which the applicant proposes to construct a 5,344 gross square foot dwelling. Accordingly, the project on appeal falls within the existing range for the neighborhood. The project on appeal would be the second largest dwelling in the neighborhood. However, within the neighborhood, the average dwelling constructed since 1980 is 618 gross square feet larger than the average dwelling constructed before 1980. Similarly, within the neighborhood, the median size home constructed since 1980 is 737 gross sq. ft. larger than the median size home built prior to 1980. Additionally, the largest dwelling in the neighborhood, 7,006 gross square feet in size, was constructed in 2012. Clearly, newer homes in the neighborhood are increasing in size in comparison with the existing housing stock.

Size is not the sole criterion for determining neighborhood compatibility. The Board of Supervisors, in adopting the Toro Canyon Plan, underscored this by not applying floor area ratio calculations to the Plan. Rather, to address neighborhood compatibility, the Board of Supervisors applied the Design Control Overlay to the Toro Canyon Plan area, thereby requiring design review as a required step in the processing of all Toro Canyon Plan area projects. Mass, bulk, scale and style come into play, as well as excellence in design. In the instant case, the proposed development would be located approximately 290 feet from Toro Canyon Road and, due to existing landscaping, would not be visible from the Toro Canyon Road, nor to property owners located to the south, east or west. The property owner of the lot adjacent to, and north of, the subject lot would have limited views of the proposed project. However, the owner of this property (AP No. 155-140-059) has not expressed any concerns regarding the proposed project. Furthermore, views of the proposed project from AP No. 155-140-059 would be compatible with the neighborhood (as determined by SBAR) and private views are not protected by County code or policy. The proposed project would not be visible from the appellants' property. The proposed development would be bunkered into existing slopes in order to conform to existing topography. On June 21, 2013 and July 25, 2014, SBAR commented that the mass, bulk and scale of the project are compatible with the neighborhood. SBAR further commented, during its July 25, 2014 review, that the project is an improvement over existing conditions. In the instant case, the SBAR based its finding of neighborhood compatibility on the existence of vegetative screening, the success of the design, including the well articulated massing of the structure, and colors and materials appropriate to the rural setting of the site (see Attachment E of Attachment 6).

In sum, the Toro Canyon Plan does not limit the size of development and the proposed project falls within the range of developed properties in the neighborhood. Furthermore, the siting, design, vegetative screening and well articulated massing of the proposed project are consistent with County Policies addressing neighborhood compatibility (specifically, Coastal Land Use Policy 4-4 and Toro Canyon Policy VIS-TC-2, see Section 6.3 of Attachment 6). Accordingly, the proposed development is compatible with the established physical scale of the area and Coastal Development Permit finding of approval No. 2.5 can be made (see Attachment 1, Findings).

Issue: Water Service Availability

The appellants contend that, considering the current drought, the proposed project's size represents an inappropriate increase in water demand.

Staff Response: The proposed project would not result in an increase in the number of bedrooms or bathrooms on the property. Furthermore, the project does not propose new landscaping. Therefore, the proposed project's water usage would be similar to the property's historic usage and would not result in a significant increase in water demand. The proposed project has received a Certificate of Water Service Availability from the Montecito Water District (see Attachment G of Attachment 6). Accordingly, adequate water services exist for the proposed project.

Issue: Landscaping as Screening

The appellants contend that, while current landscaping effectively screens the proposed project from Toro Canyon Road and the surrounding parcels, landscaping can change for many reasons, including the future years of drought. Accordingly, the appellants contend, the proposed project could become significantly more visible in the future.

Staff Response: The project on appeal proposes no new landscaping. Unlike grass and turf, which are most susceptible to drought conditions, the existing landscaping which provides screening is defined by well

established trees. Thus, it is safe to anticipate that the elements of the landscaping which provide screening will survive if the current drought conditions persist. Furthermore, the project has received Certificate of Water Service Availability from the Montecito Water District (see Attachment G of Attachment 6). Moreover, the proposed conditions of approval include a requirement that existing landscaping to screen the house from Toro Canyon Road shall be maintained and replaced as necessary and in perpetuity by the owner/applicant (see Attachment 2, Condition #21). Regardless of vegetative screening for the proposed project, the design of the project is compatible with the neighborhood and consistent with County policy (as demonstrated in staff's response to the appeal issue of neighborhood compatibility, above).

Fiscal and Facilities Impacts:

Budgeted: Yes

No appeal fees are required for appeals of projects that may be appealed to the Coastal Commission. The estimated staff cost to process the appeal is approximately \$4,719.00 (25 planner hours). This work is funded in the Planning and Development Permitting Budget Program on page D-212 of the adopted 2014-2016 fiscal year budget.

Special Instructions:

The Clerk of the Board shall publish a legal notice at least 10 days prior to the hearing on November 4, 2014. The notice shall appear in the Santa Barbara News-Press. The Clerk of the Board shall fulfill noticing requirements. A minute order of the hearing and copy of the notice and proof of publication shall be returned to Planning and Development, attention David Villalobos.

Attachments:

1. Findings for Approval
2. Conditions of Approval
3. CEQA Exemption
4. Appeal Application Letter to the Board of Supervisors
5. Planning Commission Action Letter, Appeal of the ZA's approval of the Walker Single Family Dwelling Demolition and Rebuild (Case No. 14APL-00000-00009)
6. Planning Commission Staff Report, dated August 7, 2014 including:
 - A. Findings for approval
 - B. Coastal Development Permit 13CDH-00000-00024 with Conditions of Approval
 - C. Notice of Exemption
 - D. Appeal Application and Letter to the Planning Commission, Coastal Development Permit, Case No. 13CDH-00000-00024
 - E. South Board of Architectural Review Minutes & Findings for Approval, Case No. 13BAR-00000-00103
 - F. Reduced Site Plan
 - G. Montecito Water District – Certificate of Water Service Availability

Authored by:

Ryan Cooksey, Planner, Development Review Division, P&D, (805) 568-2046