



County of Santa Barbara Planning and Development

Glenn S. Russell, Ph.D., Director

Dianne Black, Assistant Director

April 13, 2016

Barton Myers
949 Toro Canyon Road
Santa Barbara, CA 93108

RE: DENIAL LETTER
Myers Bridge
949 Toro Canyon Road
Case No. 16LUP-00000-00109; APN 155-020-004

Dear Mr. Myers,

Thank you for the March 15, 2016 application submittal for a Land Use Permit to allow construction of a new bridge and access road at the 949 Toro Canyon Drive site.

The purpose of this letter is to formally inform you that your application for 16LUP-00000-00109 was denied by the Director on April 13, 2016. This denial is based upon the proposed project's inconsistency with the following policies and development standards in the Toro Canyon Community Plan and County Land Use & Development Code:

1. **Fire and Agricultural Access.** You have referenced Toro Canyon Development Standard FIRE-TC-2.4 in your application, which states the following:

DevStd FIRE-TC-2.4: Two routes of ingress and egress shall be required for discretionary permits for subdivisions involving five or more lots to provide emergency access unless the applicable fire district waives/modifies the requirement and documents finding(s) for the waiver/modification with the County. For discretionary permits for subdivisions involving fewer than five lots, the permit application shall identify a secondary ingress and egress route for review by appropriate P&D decision maker. This secondary route may be a consideration in the siting and design of the new development.

This development standard applies to discretionary projects for subdivisions. Your property is already established as a legal lot with a principal dwelling. The proposed project is a ministerial project involving one lot; therefore, this development standard does not apply. P&D has determined that existing access on the subject property meets access requirements. P&D has conferred with the Carpinteria-Summerland Fire Protection District and confirmed that they are not requiring a secondary access to serve the lot.

Furthermore, your application indicates that the secondary access is also necessary to serve agriculture on the property. However, please be advised that agriculture on properties in the MT-TORO-100 zone district is not a principally permitted use and requires a Conditional Use Permit per Table 2-4 in Section 35.22.030 (Resource Protection Zones Allowable Land

Uses) of the County Land Use & Development Code. County records show that no Conditional Use Permit has been issued for agriculture on your property. Regardless, agriculture on the property does not justify a secondary means of access, whether or not legally established. In addition, Policy BIO TC-8 in the Toro Canyon Community Plan states that *new or expanded cultivated agricultural uses shall be prohibited within ESH areas and avoided to the maximum extent feasible in ESH buffer areas, except on agriculturally zoned parcels (i.e., AG-I or AG-II) subject to Policy BIO-TC-9.* The access road is within designated Environmentally Sensitive Habitat (ESH), your property is not agriculturally zoned, and the new road would constitute a new agricultural use if its purpose were to serve existing agriculture on the property. Therefore, this policy also applies.

2. **Environmentally Sensitive Habitat.** The following policies protecting Environmentally Sensitive Habitat apply to the subject parcel, as specified in the Toro Canyon Community Plan:

Policy BIO-TC-1: Environmentally Sensitive Habitat (ESH) areas shall be protected and, where appropriate, enhanced.

DevStd BIO-TC-1.4: (INLAND) Development shall be required to include the following buffer areas from the boundaries of Environmentally Sensitive Habitat (ESH): Coast Live Oak Forests - 25 feet from edge of canopy; Southern Coast Live Oak Riparian Forest corridors - 100 feet in Rural areas and 50 feet in Urban, Inner-Rural areas, and Existing Developed Rural Neighborhoods (EDRNs), as measured from the top of creek bank. When this habitat extends beyond the top of creek bank, the buffer shall extend an additional 50 feet in Rural areas and 25 feet in Urban, Inner-Rural areas, and EDRNs from the outside edge of the Southern Coast Live Oak Riparian Forest canopy.

Policy BIO-TC-7: (INLAND) Development shall avoid ESH and ESH buffer areas to the maximum extent feasible.

DevStd BIO-TC-7.4: (INLAND) Development shall be sited and designed at an appropriate scale (size of main structure footprint, size and number of accessory structures/uses, and total areas of paving, motorcourts and landscaping) to avoid disruption and fragmentation of biological resources in ESH areas, avoid or minimize removal of significant native vegetation and trees, preserve wildlife corridors, minimize fugitive lighting into ESH areas, and redirect development runoff/drainage away from ESH. Where appropriate, development envelopes and/or other mapping tools shall be used to protect the resource.

DevStd BIO-TC-7.8: (INLAND) All construction activity, including but not limited to staging areas, storage of equipment and building materials, and employee vehicles, shall avoid disturbance to the ESH and ESH buffer areas to the maximum extent feasible.

Policy BIO-TC-11: (INLAND) Natural stream channels shall be maintained in an undisturbed state to the maximum extent feasible in order to protect banks from erosion,

enhance wildlife passageways, and provide natural greenbelts. "Hardbank" channelization (e.g., use of concrete, riprap, gabion baskets) of stream channels shall be prohibited, except where needed to protect existing structures. Where hardbank channelization is required, the material and design used shall be the least environmentally damaging alternative and site restoration on or adjacent to the stream channel shall be required, subject to a Restoration Plan.

DevStd BIO-TC-12.1: Development shall not interrupt major wildlife travel corridors. Typical wildlife corridors include oak riparian forest and other natural areas that provide connections between communities.

The proposed bridge and new access road are located within designated Environmentally Sensitive Habitat; therefore, these policies and development standards apply. After reviewing submitted materials, conferring with CA Department of Fish and Wildlife and Central Coast Regional Water Quality Control Board staff, and conducting two separate site visits, P&D has concluded that the access road and bridge would disrupt and fragment the biological corridor and damage the riparian habitat and creek. P&D has also determined that a secondary access road and associated bridge are not necessary to provide adequate access to the subject property since access requirements are already met, and that there is therefore no justification to allow construction of a bridge and road in designated Environmentally Sensitive Habitat in conflict with these policies.

- 3. Native and Specimen Tree Protection.** The Toro Canyon Community Plan contains several policies providing protection for both native and specimen trees, including the following:

Policy BIO-TC-13: Native protected trees and non-native protected trees shall be preserved to the maximum extent feasible.

DevStd BIO-TC-13.1: (INLAND) A "native protected tree" is at least six inches in diameter (largest diameter for non-round trunks) as measured 4.5 feet above level ground (or as measured on the uphill side where sloped), and a "nonnative protected tree" is at least 25 inches in diameter at this height. Areas to be protected from grading, paving, and other disturbances shall generally include the area six feet outside of tree driplines.

DevStd BIO-TC-13.2: (INLAND) Development shall be sited and designed at an appropriate scale (size of main structure footprint, size and number of accessory structures/uses, and total areas of paving, motorcourts and landscaping) to avoid damage to native protected trees (e.g., oaks), non-native roosting and nesting trees, and non-native protected trees by incorporating buffer areas, clustering, or other appropriate measures. Mature protected trees that have grown into the natural stature particular to the species should receive priority for preservation over other immature, protected trees. Where native protected trees are removed, they shall be replaced in a manner consistent with County standard conditions for tree replacement. Native trees shall be incorporated into site landscaping plans.

During site visits by P&D and CDFW staff, it was apparent that several protected native trees were removed during construction of the unpermitted road. Furthermore, adjacent trees will likely need to be removed or will otherwise be impacted by the proposed development. As previously stated, P&D has determined that a secondary access road and associated bridge are not necessary to meet access requirements for the subject property, and that there is therefore no justification to allow construction of a bridge and road in conflict with these policies and development standards.

ADVISORY INFORMATION

Based on our review of your application, we offer the following advisory:

Active Violation on the Subject Property. The existing unpaved access road proposed to be a permanent road was constructed without permits or consultation with any agencies having jurisdiction, including but not limited to Santa Barbara County Planning and Development, California Department of Fish and Wildlife, and the Central Coast Regional Water Quality Control Board. Since the unpermitted road and associated degradation of Environmentally Sensitive Habitat has not been abated, building and zoning violations exist on the subject property. The following development standards therefore apply:

Toro Canyon Community Plan DevStd BIO-TC-1.5: Where documented zoning violations result in the degradation of an ESH the applicant shall be required to prepare and implement a habitat restoration plan. In Inland areas, this regulation shall apply to violations that occur after Plan adoption. However, in Coastal areas this development standard shall apply to ESH degraded in violation of the Local Coastal Program.

DevStd BIO-TC-2.1: Development requiring habitat enhancement in ESH and habitat protection in ESH buffer areas shall include preparation and implementation of a Restoration Plan limited to native plants. Local seed stock or cuttings propagated from the Toro Canyon region shall be used if available.

County LUDC Section 35.82.110.E (Findings required for all Land Use Permits): In compliance with Subsection 35.82.110.E.1 of the County Land Use and Development Code, prior to the approval or conditional approval of an application for a Land Use Permit the review authority shall first make all of the following findings:

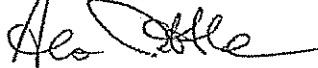
- 1.a. The proposed development conforms to the applicable provisions of the Comprehensive Plan, including any applicable community or area plan.*
- 3. The subject property is in compliance with all laws, regulations, and rules pertaining to uses, subdivisions, setbacks and any other applicable provisions of this Development Code, and any applicable zoning violation enforcement fees and*

processing fees have been paid. This Subsection shall not be interpreted to impose new requirements on legal nonconforming uses and structures in compliance with Chapter 35.101 (Nonconforming Uses, Structures, and Lots).

As a reminder, you are required to submit the remaining items required for Case No. 15LUP-00000-00380 that were outlined in the updated feedback letter dated March 2, 2016 and restore the area to pre-violation conditions in order to abate the building and zoning violations.

The action of the Director to deny Case No. 16LUP-00000-00109 may be appealed to the County Planning Commission within ten (10) calendar days following the date of the Director's decision by the applicant. The appeal fee is \$608.26.

Sincerely,



Alex Tuttle, Supervising Planner
123 E. Anapamu Street
Santa Barbara, CA 93101

Cc: Dr. Glenn Russell, Planning Director
Dianne Black, Assistant Director
Sean Herron, Planner