



PLANNING & DEVELOPMENT
APPEAL FORM

SITE ADDRESS: 949 Toro Canyon Road, Santa Barbara, CA 93108

ASSESSOR PARCEL NUMBER: 155-020-004

PARCEL SIZE (acres/sq.ft.): Gross 38.68 Net _____

COMPREHENSIVE/COASTAL PLAN DESIGNATION: MA-50 ZONING: MT-TORO-50

Are there previous permits/applications? No Yes numbers: _____
(include permit# & lot # if tract)

Are there previous environmental (CEQA) documents? No Yes numbers: _____

1. Appellant: Barton and Vicki Myers Phone: (310) 208-2227 FAX: (310) 208-2207

Mailing Address: 949 Toro Canyon Road, Santa Barbara, CA 93108 E-mail: b_myerssb@bartonmyers.com
Street City State Zip

2. Owner: Same as appellant Phone: _____ FAX: _____

Mailing Address: _____ E-mail: _____
Street City State Zip

3. Agent: Derek A. Westen, Esq. Phone: (805) 963-7130 FAX: 805 456-0409

Mailing Address: 1800 Jelinda Drive, Santa Barbara, CA 93108 E-mail: derek@westenlaw.com
Street City State Zip

4. Attorney: Same as agent Phone: _____ FAX: _____

Mailing Address: _____ E-mail _____
Street City State Zip

16APL-00000-00021

MYERS TRUST - SECONDARY ACCESS & BR
949 TORO CANYON RD

8/23/16

SANTA BARBARA

155-020-004

COUNTY USE ONLY

Companion Case Number: _____
Submittal Date: _____
Receipt Number: _____
Accepted for Processing: _____
Comp. Plan Designation: _____

2016 AUG 19 PM 4:46
COUNTY OF SANTA BARBARA
CLERK OF THE
BOARD OF SUPERVISORS

COUNTY OF SANTA BARBARA APPEAL TO THE :

BOARD OF SUPERVISORS

PLANNING COMMISSION: COUNTY MONTECITO

RE: Project Title Myers Bridge Appeal

Case No. 16APL-00000-00012

Date of Action August 10, 2016

I hereby appeal the approval approval w/conditions denial of the:

Board of Architectural Review – Which Board? _____

Coastal Development Permit decision

Land Use Permit decision

Planning Commission decision – Which Commission? County

Planning & Development Director decision

Zoning Administrator decision

Is the appellant the applicant or an aggrieved party?

Applicant

Aggrieved party – if you are not the applicant, provide an explanation of how you are and "aggrieved party" as defined on page two of this appeal form:

Reason of grounds for the appeal – Write the reason for the appeal below or submit 8 copies of your appeal letter that addresses the appeal requirements listed on page two of this appeal form:

- A clear, complete and concise statement of the reasons why the decision or determination is inconsistent with the provisions and purposes of the County's Zoning Ordinances or other applicable law; and
- Grounds shall be specifically stated if it is claimed that there was error or abuse of discretion, or lack of a fair and impartial hearing, or that the decision is not supported by the evidence presented for consideration, or that there is significant new evidence relevant to the decision which could not have been presented at the time the decision was made.

See attached Statement of Grounds for Appeal

Specific conditions imposed which I wish to appeal are (if applicable):

- a.

- b.

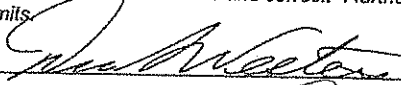
- c.

- d.


Please include any other information you feel is relevant to this application.

CERTIFICATION OF ACCURACY AND COMPLETENESS Signatures must be completed for each line. If one or more of the parties are the same, please re-sign the applicable line.

Applicant's signature authorizes County staff to enter the property described above for the purposes of inspection. I hereby declare under penalty of perjury that the information contained in this application and all attached materials are correct, true and complete. I acknowledge and agree that the County of Santa Barbara is relying on the accuracy of this information and my representations in order to process this application and that any permits issued by the County may be rescinded if it is determined that the information and materials submitted are not true and correct. I further acknowledge that I may be liable for any costs associated with rescission of such permits.



Date August 19, 2016

Print name and sign - Firm **Derek A. Westen** 


Date August 19, 2016

Print name and sign - Preparer of this form **Derek A. Westen**

Date

Print name and sign - Applicant

Date


Print name and sign - Agent **Derek A. Westen**

Date August 19, 2016

Print name and sign - Landowner

Date

STATEMENT OF GROUNDS FOR APPEAL

MYERS BRIDGE

16LUP-00000-00109

Summary: The appellants' comprehensive application for a new access road and bridge across Toro Canyon Road should be approved. It addresses the property's current significant access deficiencies, complies with all applicable comprehensive and zoning standards, and addresses not only a legitimate property right of the owners, but critically-important life, health, and safety requirements.

1. The Planning Commission's denial, on an extremely close 2-2 vote, is not supported by the evidence in the record. The project has been carefully designed to minimize any possible impacts to environmental resources, and includes important beneficial impacts that will enhance the biological and environmental resources in the area, and significantly address serious fire, life, health and safety considerations, both for residents, and for fire fighting personnel.
2. The Planning Commission's Findings for denial of the appeal are not supported by the evidence in the record. DevSTd FIRE-TC-2.4, provides that "[t]wo routes of ingress and egress *shall be required* for discretionary permits for subdivision 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. ...". The Planning Commission's determination that the development standard is inapplicable is incorrect because:
 - a. The interpretation is technical and legalistic, ignoring the underlying policy that not only supports, but mandates secondary access precisely because of overriding life/safety considerations both for residents and fire suppression personnel themselves. If the subdivision were being approved today, the secondary access would be very strongly encouraged, if not mandatory;
 - b. The interpretation ignores Santa Barbara Development Standard #1.E. for Private Road and Driveway Standards which provides, "Two separate and approved access roads (not alternate access) *shall be provided* when it is determined by the Fire Chief that access by a single road, in excess of 600 ft, might be impaired by vehicle congestion, condition of terrain, climatic conditions or other factors that could limit access (CFC [California Fire Code] Appendix D107.1 & 503.1.2) (*Emphasis added.*);
 - c. The finding that "existing access on the subject property meets access requirements" is not supported by the evidence that the access is frequently blocked and by the evidence from fire department officials strongly supporting secondary access;
 - d. Staff's statement that Carpinteria-Summerland Fire Protection District is not "requiring" the secondary access ignores the fact that the District Fire Chief states that the secondary access is "prudent" and "fully supports" the secondary access;

- e. Santa Barbara County Fire Department Standards mandate secondary access where the governing Fire Chief determines that "access by a single road ... might be impaired by vehicle congestion, condition of terrain ... or other factors that could limit access. ..." In fact, Cal Fire, of the California Department of Forestry and Fire Protection, has responsibility for fire suppression in the area and has delegated the responsibility to Santa Barbara Fire Department (not to Carpinteria-Summerland). County standards should apply;
 - f. The contentions that the agricultural uses are not "principally permitted," and that a CUP would be required for *new* agricultural uses, are not relevant. In fact, the property has existing agricultural uses permitted as prior non-conforming uses that do not require a CUP or new permit;
 - g. The conclusion that the agricultural uses do not support the proposed secondary access is not supported by the evidence, and also ignores the fact that health and safety considerations also strongly support the secondary access;
 - h. The conclusion that the secondary access road would only serve a *new* agricultural use is not supported by the evidence and ignores the fact that the secondary access is also necessary for health and safety considerations; and
 - i. The conclusion that the access road would only serve agriculture ignores the facts that the access road would serve additional water exploration for Well #4 by the East Montecito Mutual Water Company, and that such a road is exempt from LUP requirements, and also because such a road for agricultural support is not a "development," but an "improvement," and that "improvements" are specifically supported by County agricultural policies.
3. The conclusory finding that the proposed secondary access is inconsistent with seven different environmental policies because it would "disrupt and fragment the biological corridor and damage the riparian habitat and creek" is unsupported by evidence in the record, and directly contrary to the biologist's, wildlife biologist's, and arborist's reports filed in support of the application. In fact, the proposed development is consistent with all of the cited policies because it complies with them "to the maximum extent feasible."
4. The conclusory finding that the proposed secondary access is inconsistent with the tree protection policies on the grounds that "several protected native trees were [previously] removed" is unsupported by the evidence and is contrary to the arborist's report filed in support of the application.

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