



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: January 22, 2008
Placement: Set Hearing
"Estimated Time:": 1.5 hrs on February 12,
2008
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department John Baker, Director, (805) 568-2085
Director:
Contact Info: Zoraida Abresch, Deputy Director, (805) 934-6585
SUBJECT: Vander Meulen Appeal of Conley Lot Split, Fourth Supervisorial District

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

As to form: No

Recommended Actions:

That the Board of Supervisors:

Set a hearing for February 12, 2008 to consider the Vander Meulen Appeal (Case No. 07APL-00000-00027 filed by the applicant) of the County Planning Commission's August 22, 2007 approval of the Conley Lot Split (Case No. 06TPM-00000-00003), located at 1390 Solomon Road (APN 105-010-032) in the Orcutt area of the Fourth Supervisorial District.

At the February 12, 2008 hearing, the Board of Supervisor's action should include the following:

- a) Adopt the required findings for the project, specified as Attachment A of the Planning Commission's staff report dated July 18, 2007, including the CEQA Exemption (Staff Report Attachment B);
- b) Deny the appeal, 07APL-00000-00027, upholding the Zoning Administrator's approval of 06TPM-00000-00003 and the Planning Commissions denial of 07APL-00000-00013; and
- c) Grant *de novo* approval of Case No. 06TPM-00000-00003 (TPM 14,693) subject to the Conditions included as Attachment C of the Planning Commission's staff report dated July 18, 2007, as revised at the Planning Commission hearing of August 22, 2007.

Auditor-Controller Concurrence

As to form: N/A

Summary Text:

A. Proposed Project

On February 8, 2006, Planning and Development received an application for a Tentative Parcel Map (case number 06TPM-00000-00003/TPM 14,693) to divide a 3.23 acres gross/3.01 acres net parcel into three, approximately 1 acre parcels. The site is in the 1-E-1 Zone District under the Santa Barbara County Land Use & Development Code and located at 1390 Solomon Road, Orcutt, in the Fourth Supervisorial District.

B. Zoning Administrator Action

The Zoning Administrator considered the Conley Lot Split on February 5, March 26 and April 9, 2007. At the February 5th hearing, the down-slope neighbors, Michelle and John Vander Meulen and Jack Brady, expressed concerns that future development on the two new lots would cause or exacerbate flooding of their property. They also expressed doubt that the standard conditions required by the Flood Control Agency of the Public Works Department (Flood Control) would be adequately enforced. For these reasons, the Vander Meulens and Mr. Brady requested additional project conditions to ensure that future development would not result in an increase in runoff from the site. In addition to the standard conditions required by Flood Control, the Conleys agreed to submit a drainage study and drainage plans to Flood Control and obtain Flood Control's approval on the plans, before recording the Tentative Parcel Map. The Conleys also agreed to notify the neighbors when the drainage plan was submitted. The project was approved by the Zoning Administrator with these additional conditions on April 9, 2007.

On April 19, 2007 the Vander Meulens appealed the Zoning Administrator's decision to approve the Conley's lot split to the Planning Commission. Again, the appellants' primary concern was that the project could increase storm water runoff onto downstream properties and, in turn, exacerbate flooding and result in potential erosion and well contamination. These issues are discussed in more detail in the staff report to the Planning Commission dated July 18, 2007 and included as Attachment A.

Prior to the Planning Commission hearing, a drainage study and a drainage plan were prepared for the project by a licensed civil engineer. The plan includes a water retardation basin on the lowest of the three proposed parcels. The associated calculations demonstrate that there will be *no net rate of increase in runoff* onto adjacent parcels from future development. However, the appellants still had concerns about potential runoff from the subject parcel. An informal pre-appeal meeting was conducted that included the applicant, applicant's agent, appellants, and a representative from Flood Control. The appellants had the opportunity to review the plans and discuss them with the other meeting attendees. At the meeting, the appellants requested that each proposed parcel contain its own basin and that runoff from each parcel be zero. The applicant agreed to a condition that would ensure *no increased runoff* from the site but could not agree to additional basins or to a condition requiring *no runoff* from the site.

C. Planning Commission Action

On August 8, 2007, the Planning Commission considered the Vander Meulen's appeal. The appellants' major issue continued to be dissatisfaction with the conditions designed to protect their property from

flooding, erosion and well contamination. The Commission voted 5-0 to conceptually adopt the findings, deny the appeal, and approve the project with conditions as revised at the hearing (Attachment A). Revised conditions included a new letter from Flood Control requiring (1) submittal of a drainage study and drainage plan to Flood Control prior to map recordation; (2) private drainage easements on downstream lots in favor of upstream lots; and (3) the applicant enter into an agreement with Flood Control ensuring perpetual maintenance of the basin. The appeal was continued to the meeting of August 22, 2007 to allow the Commissioners to review the "Subdivider's Agreement to Construct and Maintain Private Drainage Improvement and Private Drainage & Maintenance Easements". On August 22nd, the Planning Commission voted 5-0 to deny the appeal and approve the Tentative Parcel Map as conditioned. On August 31, 2007, this action too was appealed to the Board of Supervisors.

D. Staff Response to Appeal Letter

The current appeal (Attachment B) once again contends that flooding, erosion, and water quality impacts are not being addressed appropriately. These issues were raised in the original appeal to the Planning Commission and are discussed in the attached Planning Commission staff report. The main appeal points are summarized as follows:

1. Flooding. Future development on the Conley property will cause increased water runoff and flooding on the down slope parcel.
2. Erosion. Runoff from future development and the resulting impervious surfaces will cause on-site erosion. Overspill from the single large retardation basin proposed near their property line will cause erosion on down slope parcels.

Staff and the Planning Commission believe that the current conditions are more than adequate to ensure that *no additional net runoff* will result from future development allowed by the three-way lot split. Pursuant to Conditions of Approval 5a, 5b and 5c, a final engineered drainage study and drainage plans were reviewed by Flood Control and it was determined that the plans meet or exceed the intent of the conditions. All runoff from the site is conveyed into the onsite basin. The proposed basin sizing was determined adequate to attenuate flows from a 100-year storm event, which would actually reduce off-site runoff below historic volumes. Finally, in the event that the basin is filled, the water would spill over the edge of the trough and sheet flow off the site in a manner that would not have the potential to cause significant erosion. Specific details of the drainage plan are shown in The Final Hydrology and Detention Basin Analysis Report (Attachment C).

3. Well Contamination. The appellants state that future development will cause flooding and standing water on their parcel, and that the standing water will cause contamination of their domestic water well. For this reason, the appellants would like the proposed retardation basin moved away from their well, and for each parcel to have its own retardation basin.

As stated above, County staff, private sector civil engineers and the Planning Commission have determined that the proposed drainage plan is more than sufficient to prevent any increase in historic levels of runoff and standing water. The appellants' domestic water well is located approximately 15 feet down slope of the proposed retardation basin. Environmental Health Services Division (EHS) well records indicate that the well has a 50 ft annular seal, which precludes contamination from existing flooding conditions.

E. Facilitation Meeting with County Counsel between Appellants and Applicant

A facilitation meeting between the Appellants and Applicants was held on November 16, 2007. Although the parties to this appeal did not reach an agreement to withdraw the appeal, County staff and both parties agreed and recommend that your Board’s preparation for this appeal hearing should focus on the potential impacts from runoff water onto land downhill of the Conley’s parcel, specifically, well contamination, erosion, and flood control. County Counsel’s memorandum to the Board regarding this facilitation is included as Attachment D.

Fiscal and Facilities Impacts:

Budgeted: Yes

Fiscal Analysis:

The cost to process this appeal is partially offset by the \$443 appeal fee paid by the appellant per the Planning & Development Department fee schedule in effect on the date that the appeals were filed (Resolution 06-359 adopted by the Board of Supervisors on November 14, 2006, effective January 2007). The fee was collected from the appellants, Michelle and John Vander Meulen. The remaining cost of processing the appeal is budgeted in the Permitting and Compliance Program of the Development Review Division – North on page D-290 of the adopted budget for Fiscal Year 2007/2008. There are no facilities impacts. Estimated staff time to process the appeal and prepare for and attend the hearing is approximately 55 hours for an estimated cost of \$7,095.

Staffing Impacts:

Legal Positions:
N/A

FTEs:
N/A

Special Instructions:

Clerk of the Board shall publish a legal notice in the Santa Barbara News-Press and the Santa Maria Times and shall complete the mailed noticing requirements for the project at least ten (10) days prior to the February 12, 2008 hearing (mailing labels attached).

Clerk of the Board shall forward a copy of the Minute Order and copies of the legal notice and proof of publication to Planning & Development, Hearing Support Section, Attention: David Villalobos.

Attachments:

- A. Planning Commission Action Letter dated September 4, 2007 and Staff Report dated July 18, 2007
- B. Appeal Application dated August 31, 2007
- C. Final Hydrology and Detention Basin Analysis Report for TPM 14,693 dated November 16, 2007
- D. November 16, 2007 Report of the Facilitation Process for the Appeal of the Conley Lot Split

Authored by:

Joyce Gerber, Planner
(805) 934-6265

Vander Meulen Appeal of Conley Lot Split, 07APL-00000-00027
Board of Supervisors Hearing of February 12, 2008
Page 5

CC:

Gary Kaiser, Supervising Planner
File 07APL-00000-00027

G:\GROUP\PERMITTING\Case Files\APL\2000s\07 cases\07APL-00000-00027 of 07APL-00013\BOS Agenda Letter.doc