

COUNTY OF SANTA BARBARA CALIFORNIA

PLANNING COMMISSION

COUNTY ENGINEERING BUILDING
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August 15, 2016

Derek Westen
1800 Jelinda Drive
Santa Barbara, CA 93108

PLANNING COMMISSION
HEARING OF AUGUST 10, 2016

RE: Myers Bridge Appeal; 16APL-00000-00012

Hearing on the request of Derek Westen, agent for the property owners Barton and Victoria Myers, to consider Case No. 16APL-00000-00012 [application filed on April 21, 2016] to appeal the Planning and Development Department's denial of a Land Use Permit to allow construction of a secondary access road and new bridge (Case No. 16LUP-00000-00108), in compliance with Section 35.102 [Appeals] of the County Land Use and Development Code, on property zoned MT-TORO-100. The application involves Assessor's Parcel No. 155-020-004, located at 949 Toro Canyon Road in the Toro Canyon Community Plan area, First Supervisorial District.

Dear Mr. Westen:

At the Planning Commission hearing of August 10, 2016, Commissioner Brooks moved, seconded by Commissioner Brown and failed by a vote of 2 to 2 (Ferini and Blough no, Commissioner Cooney recused himself prior to the hearing)* to:

1. Deny the appeal, Case No. 16APL-00000-00012;
2. Make the required findings for denial of the project (Case No. 16LUP-00000-00109) in Attachment A of the staff report dated July 21, 2016, including CEQA findings;
3. Determine the denial of the project is exempt from CEQA, pursuant to CEQA Guidelines Section 15270, included as Attachment B of the staff report dated July 21, 2016; and
4. Deny *de novo*, the project, Case No. 16LUP-00000-00109, thereby affirming the decision of the Planning & Development Director.

* The adopted *Santa Barbara County Planning Commission Procedures Manual*, Procedure for Conduct of Public Hearings #11 (Page 10) states that "The Commissioner of the district in which the project is located is given the first opportunity to make a motion to approve, conditionally approve, deny or continue the item for additional study. Any motion for final action must include the adoption of all required findings. A majority of the Commission present must support a motion for any motion to pass. In the event of a split vote, (2-2), the motion would fail to pass. Unless the Commission makes another motion resulting in a majority decision, the motion's failure to pass would be deemed a denial. For Comprehensive Plan Amendments, a recommendation for approval

shall be made by the affirmative vote of not less than a majority of the total membership of the Commission."

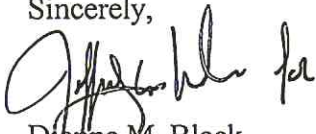
The attached findings reflect the Planning Commission's actions of August 10, 2016.

The action of the Planning Commission on this project may be appealed to the Board of Supervisors by the applicant or any aggrieved person adversely affected by such decision. To qualify as an aggrieved persons the appellant, in person or through a representative, must have informed the Planning Commission by appropriate means prior to the decision on this project of the nature of their concerns, or, for good cause, was unable to do so.

Appeal applications may be obtained at the Clerk of the Board's office. The appeal form must be filed along with any attachments to the Clerk of the Board. In addition to the appeal form a concise summary of fifty words or less, stating the reasons for the appeal, must be submitted with the appeal. The summary statement will be used for public noticing of your appeal before the Board of Supervisors. The appeal, which shall be in writing together with the accompanying applicable fee must be filed with the Clerk of the Board of Supervisors within the 10 calendar days following the date of the Planning Commission's decision. In the event that the last day for filing an appeal falls on a non-business of the County, the appeal may be timely filed on the next business day. This letter or a copy should be taken to the Clerk of the Board of Supervisors in order to determine that the appeal is filed within the allowed appeal period. **The appeal period for this project ends on August 22, 2016 at 5:00 p.m.**

If this decision is appealed, the filing fee for both non-applicant and applicant is \$659.92 and must be delivered to the Clerk of the Board Office at 105 East Anapamu Street, Room 407, Santa Barbara, CA at the same time the appeal is filed.

Sincerely,



Dianne M. Black
Secretary to the Planning Commission

cc: Case File: 16APL-00000-00012
Planning Commission File
Owner: Barton and Victoria Myers, 949 Toro Canyon Road, Santa Barbara, CA 93108
Engineer: Steve Davis, David Land Surveying, 44 Helena Avenue, Santa Barbara, CA 93101
Fire Department
Flood Control
Salud Carbajal, First District Supervisor
Michael Cooney, First District Planning Commissioner
Jenna Richardson, Deputy County Counsel
Sean Herron, Planner

Attachments: Attachment A – Findings for Denial

DMB/dmv

ATTACHMENT A: FINDINGS FOR DENIAL

1.0 CEQA FINDINGS

The County Planning Commission finds that CEQA does not apply to the denial of the appeal pursuant to CEQA Guidelines Section 15270 [Projects Which are Disapproved]. See Attachment B, CEQA Notice of Exemption.

2.0 ADMINISTRATIVE FINDINGS

In order for a Land Use Permit for new development to be approved, the proposed development must comply with all applicable requirements of the County Land Use and Development Code and policies of the County Comprehensive Plan. As proposed, the following required findings in the County LUDC cannot be made. Only findings that cannot be made are discussed below:

2.1 LAND USE PERMIT FINDINGS

A. Findings required for all Land Use Permits. In compliance with Subsection 35.82.110.E.1.1.a 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. The proposed development conforms to the applicable provisions of the Comprehensive Plan, including any applicable community or area plan.**

As discussed in Sections 6.1, 6.2, 6.3, and 6.4 of this staff report dated July 21, 2016 and incorporated by reference herein by reference, the proposed project is not consistent with the applicable policies of the Comprehensive Plan, including the Toro Canyon Community Plan. The proposed project does not conform to the following policies and development standards of the Toro Canyon Community Plan: Policy BIO-TC-1, DevStd BIO-TC-1.4, Policy BIO-TC-7, DevStd BIO-TC-7.4, DevStd BIO-TC-7.8, Policy BIO-TC-11, DevStd BIO-TC-12.1, Policy BIO-TC-13, DevStd BIO-TC-13.1, and DevStd BIO-TC-13.2. Therefore, this required finding cannot be made and the proposed development associated with Land Use Permit 16LUP-00000-00109 cannot be approved.

- 2. 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 discussed in Sections 5.3, 6.1, and 6.4 of this staff report dated July 21, 2016 and incorporated herein by reference, the subject property is not in compliance with all laws, regulations, and rules pertaining to permitting requirements in the LUDC since the property owner began construction of the secondary access road without obtaining the necessary permits from Planning & Development. As a result, building and zoning violation cases (Case Nos. 15BDV-00000-00080 and 15ZEV-00000-00244) were opened in June 2015. To date, these cases are still active violations. Therefore, this required finding cannot be made and the proposed development associated with Land Use Permit 16LUP-00000-00109 cannot be approved.

B. Additional findings required for sites zoned Environmentally Sensitive Habitat Area Overlay - Toro Canyon (ESH-TCP).

- 1. All projects.** In compliance with Subsection 35.28.100.E.3 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 find that the proposed project complies with all applicable biological resource policies and development standards in the Toro Canyon Plan.

As discussed in Sections 6.1, 6.2, 6.3, and 6.4 of this staff report dated July 21, 2016 and incorporated herein by reference, the proposed project does not comply with the following biological resource policies and development standards in the Toro Canyon Community Plan: Policy BIO-TC-1, DevStd BIO-TC-1.4, Policy BIO-TC-7, DevStd BIO-TC-7.4, DevStd BIO-TC-7.8, Policy BIO-TC-11, DevStd BIO-TC-12.1, Policy BIO-TC-13, DevStd BIO-TC-13.1, and DevStd BIO-TC-13.2. Therefore, this required finding cannot be made and the proposed development associated with Land Use Permit 16LUP-00000-00109 cannot be approved.