

**SANTA BARBARA COUNTY
BOARD AGENDA LETTER**



Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Agenda Number:
Prepared on: February 10, 2003
Department Name: County Administrator
Department No.: 012
Agenda Date: February 18, 2003
Placement: Departmental
Estimate Time: 15 minutes
Continued Item: NO
If Yes, date from:

TO: Board of Supervisors

FROM: Michael F. Brown
County Administrator

STAFF CONTACT: Scott Ullery, Deputy County Administrator (568-3400)
Jennifer C. Klein, Deputy County Counsel (568-2950)
Steven Peterson, Planner III, Planning & Development (568-6836)

SUBJECT: Bureau of Indian Affairs Request for Information re: Tribal application to have land taken into trust.

Recommendation(s):

That the Board of Supervisors:

1. Review, execute and submit a response letter from the Santa Barbara Board of Supervisors to the United States Department of the Interior -- Bureau of Indian Affairs, to the request for information and comments on the August 10, 2001 application submitted by the Santa Ynez Band of Chumash Indians ("Tribe") to the Department of the Interior to have land removed from County jurisdiction and taken into trust by the United States Government ("Fee-to-Trust Application").
2. Authorize Clerk of the Board of Supervisors to mail a signed copy of the approved letter to parties indicated on the letter's cc: list.

Alignment with Board Strategic Plan:

The recommendation(s) are primarily aligned with Goal No. 2. A Safe and Healthy Community in Which to Live, Work, and Visit; and Goal No. 5 A High Quality of Life for All Residents.

Executive Summary and Discussion:

The County Administrator's Office received a Notice of (Non-Gaming) Land Acquisition, dated December 19, 2002, on December 24, 2002 from the Bureau of Indian Affairs. This is a fee-to-trust application to have approximately 12.36 acres of land adjacent to the Tribe's existing reservation placed "into trust" for the Tribe by the Bureau of Indian Affairs. The following properties are the subject of the Tribe's application: APN 141-450-07 (formerly APN 141-450-44) known as the Walker Property (approximately 1.06 acres) and APN 141-450-06 (formerly APN 141-450-47) known as the Davidge Property (approximately 11.3 acres). See attached map.

Pursuant to the Code of Federal Regulations, *Title 25, Indians, Part 151.10, 151.11:1*, the Bureau of Indian Affairs has specifically asked the County to provide the following information: (1) the annual amount of property taxes currently levied on the subject properties; (2) any special assessments, and amounts thereof, that are currently assessed against the properties in support of the County; (3) any County services currently provided to the properties; and (4) if subject to zoning, how the intended use (non-gaming) is consistent, or inconsistent with current zoning.

In order to provide comments and the above information the County requested and received a 30-day extension to comment on the proposed fee-to-trust application by February 25, 2003. The appropriate County departments are reviewing the document and gathering information for inclusion in a comment letter for your Board. A draft letter will be presented to your Board at the meeting on February 18, 2003.

Mandates and Service Levels:

Since the fee-to-trust application does not identify proposed development for these parcels, impacts to County service levels are unknown. Staff will provide your Board an analysis of the anticipated impacts that might occur from parcel development at the hearing on February 18, 2003.

Fiscal and Facilities Impacts:

Removing these lands from County jurisdiction will result in a loss of property tax revenue and potential sales tax revenue that might be generated from future commercial development on these parcels.

Concurrence: County Administrator, County Counsel, and Planning & Development

Special Instructions:

Authorize Clerk of the Board of Supervisors to mail a signed copy of the approved letter to parties indicated on the letter's cc: list using following address list:

*Subject: Comment Letter to Bureau of Indian Affairs re: Fee-to-Trust Application
APN 141-450-06 & APN 141-450-07*

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Vincent Armenta
Chairman
Santa Ynez Band of Chumash Indians
P.O. Box 517
Santa Ynez, CA 93460

Lois Capps
U.S. Congresswoman
1216 State Street, Suite 403
Santa Barbara, CA 93101

Elton Gallegly
U.S. Congressman
2829 Townsgate Road, Suite 315
Thousand Oaks, CA 91361-3018

Governor Gray Davis
State of California
Office of the Governor
State Capitol, Fl. 1
Sacramento, CA 95814

Hannah Beth Jackson
State Assembly Member
101 W. Anapamu Street, Suite A
Santa Barbara CA 93101

State Senator Tom McClintock
State Capitol, Room 3070
Sacramento, CA 95814

State Senator Jim Battin
State Capitol, Room 3074
Sacramento, CA 95814

Bill Lockyer, Attorney General
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Governor's Office of Planning & Research
Attn: Scott Morgan
State of California
1400 Tenth Street
P.O. Box 3044
Sacramento, CA 95812-3044

Chris Dahlstrom
Santa Ynez River Water Con. District ID# 1
P.O. Box 719
Santa Ynez, CA 93460-0719

Marlene Demery, City Manager
City of Solvang
P.O. Box 107
Solvang, Ca 93464

Steve Thompson, City Manager
City of Buellton
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Buellton, CA 93427

Bonnie Ottoman, General Manager
Santa Ynez Community Services District
P.O. Box 667
Santa Ynez, CA 93460-0667

Santa Ynez Airport Authority
900 Airport Road
Santa Ynez, CA. 93460

California Department of Transportation, District 5
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San Luis Obispo, CA 93401-5415

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Brenda Tomaras, Staff Attorney
California Indian Legal Services
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Escondido, CA 92025

Ms. Sharon Redthunder, Lead Realty Specialist
US DEPARTMENT OF THE INTERIOR
Bureau of Indian Affairs Colville Agency
P.O. Box 111
Nespelem, WA 99155

Subject: Comment Letter to Bureau of Indian Affairs re: Fee-to-Trust Application

APN 141-450-06 & APN 141-450-07

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Attachments:

A: Bureau of Indian Affairs Notice of (Non-Gaming) Land Acquisition Application (w/o Attachments)

B: 2 Location Maps

C: Proposed Letter to U.S. Department of the Interior, Bureau of Indian Affairs

February 18, 2003

Virgil Townsend, Superintendent
Department of the Interior
Bureau of Indian Affairs
Southern California Agency
2038 Iowa Avenue, Suite 101
Riverside, CA 92507-2471

RE: December 19, 2002 Notice of Fee-to-Trust Application filed by the Santa Ynez Band of Mission Indians.

Dear Mr. Townsend:

Thank you for the opportunity to provide comments on the proposed acceptance of title to real property in trust by the United States of America for the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation of California ("Tribe") in Santa Barbara County, California. This letter provides general comments and specifically responds to your request for information.

1. The annual amount of property taxes currently levied on the subject property allocated to your organization?

For the present tax year, the Walker property, Assessor's Parcel No. 141-450-007, will be assessed at \$587,836, with taxes assessed at 1% totaling \$5,878. The Davidge property, Assessor's Parcel No. 141-450-006, will be assessed at \$379,000, with taxes assessed at 1% totaling \$3,790. Annual property tax for the Davidge and Walker properties together total \$9,665.

The Tribe states in its Application that the loss of property tax revenue to the County would be "insignificant" in light of the total tax revenue of \$323 million. This figure cites the total tax roll. The amount of property tax that was actually allocated to the County General Fund in FY 2001-2002 was an estimated \$72.7 million, which is less than 22% of the total tax roll. While the total amount of property tax allocated to County from these parcels is still relatively "insignificant", County will still be losing revenue, without a corresponding source of replacement funds.

2. Special assessments and amounts thereof, that are currently assessed against the property in support of your organization?

The only special or “benefit” assessment in favor of the County of Santa Barbara total \$1.15 for the Davidge property, and \$3.17 for the Walker property. These funds go to and are used exclusively for flood control projects in the Santa Ynez Flood Zone.

3. Any government services that are currently provided to the property by your organization?

The major services that the County provides to these parcels include law enforcement, fire protection, and other emergency services. If existing uses or level of development change or expand on the parcels, the need for these services will also change or expand depending on the nature of the development or use. The County is open to negotiating government-to-government agreements with the Tribe to address future service needs these parcels may have once they are taken into trust.

4. How the intended use is consistent or inconsistent with current zoning?

The current zoning for both the Walker (1.06 acres) and Davidge (11.3 acres) properties is 1-E-1 (Residential with a one acre minimum parcel size). The purpose of the 1-E-1 zoning designation is “to reserve appropriately located areas for family living at a reasonable range of population densities consistent with sound standards of public health, welfare, and safety. It is the intent of this district to protect the residential characteristics of an area and to promote a suitable environment for family life.” The 1-E-1 zone district allows for the development of one single-family dwelling per lot along with a smaller secondary residential unit, guest house or artist studio. No commercial development is allowed in this zone. The Tribe’s application indicates that no additional development is planned for the subject parcels and that the existing residences there would be maintained. This would be consistent with the County’s current land use and zoning standards for the parcels.

The application goes on to state that, “the 12.36 acres of land have no development potential at all.” County does not believe this statement is entirely accurate for the following reasons:

- 1) The entire Davidge parcel and the northern end of the Walker parcel both front directly on Highway 246, are at-grade with the highway and highly visible to passing motorists – possibly making them a good location for future commercial development by the Tribe. Commercial development on these parcels would be inconsistent with the County’s current zoning.
- 2) Informal discussions between the County and the Tribe have identified the intersection of Cuesta Street and Highway 246 as a potentially desirable long-term location for the Casino’s main entrance. Pursuit of this option would entail significant roadway and bridge development on the subject parcels.

- 3) The application indicates that the Tribe intends the subject parcels to serve as a linkage between the existing North and South Reservations. It seems logical that the Tribe would want to install and/or improve utility, infrastructure and roadway linkages across the Walker and Davidge parcels between the two halves of the existing reservation. County considers such linkages “development”.

It may be more accurate to say that the Tribe has no immediate plans for development of the subject parcels, but that the parcels do have limited development potential, for the above reasons.

General Comments Concerning NEPA Review

County does not object to this land ultimately being taken into trust. Rather, County would like to see the BIA pursue a comprehensive environmental analysis that is consistent with the requirements of NEPA and not look at the present Application in isolation. It is County’s understanding that a Categorical Exclusion from the requirements of the National Environmental Policy Act (“NEPA”) has already been granted for the Tribe’s Application by the Bureau of Indian Affairs, Southern California Agency (“BIA”). It is our further understanding that this decision was based on a “walk-over” conducted by John Rydzik, Natural Resources Officer for the BIA, and on the Tribe’s Application which states that the Tribe does not intend to change the use of the parcels, but only intends to use it for infrastructure and utility connections between the North and South portions of the existing reservation.

The County generally supports the Tribe’s efforts to unify the North and South reservation. At the same time, the Tribe’s existing Casino development is currently undergoing expansion on the South reservation. The County is concerned that casino expansion will require increased utility services and infrastructure necessitating expansion of the existing uses of the parcels the Tribe now seeks to have placed into trust. Given this scenario, County recommends that the BIA take a second look at the potential environmental effects of this fee-to-trust transfer. In order to avoid piecemeal review, County recommends that the BIA analyze the environmental impacts of taking the subject parcels into trust with the larger context of tribal development and land acquisitions in mind. Specifically, the relationship between trust acquisitions and their general facilitation of tribal development, gaming or non-gaming related, on tribal land should be addressed all at once.

The County understands that the Tribe cannot know with absolute certainty all of its future development, utility, and infrastructure needs. However, we believe that enough is known now to justify analyzing all present trust acquisition applications in light of existing and reasonably foreseeable tribal development plans, gaming and non-gaming related. This unified analysis is important because, at the time the Tribe submitted its application to have these parcels taken into trust, August 2001, construction on the Tribe’s Casino project had barely begun. That project is nearing completion more

than a year and a half later, and new infrastructure or development needs may have surfaced in the interim.

Conclusion

The County of Santa Barbara respects tribal sovereignty and supports the Tribe's efforts to ensure self-reliance and improve the living conditions of its members. The County also respects the role of your agency, the Department of the Interior -- Bureau of Indian Affairs, and encourages it to rigorously analyze the Tribe's present Fee-to-Trust Application in light of the comments outlined in this letter. County hopes that, once these parcels are taken into trust, the Tribe will benefit from uniting its north and south reservations. The County also hopes that the Tribe will continue to communicate on a government-to-government basis with the County concerning its future plans for the subject parcels, if any.

Thank you for the opportunity to furnish comments on the proposed Fee-to-Trust application. If you have any questions regarding this letter or if you would like further information please contact Jennifer Klein, Deputy County Counsel. She can be reached at (805) 568-2950.

Respectfully,

Naomi Schwartz, Chair
Board of Supervisors
County of Santa Barbara

Attachment – Vicinity Map with Chumash Reservation, Tribe-owned Parcels, current and previous FTT application parcels delineated

cc:

Vincent Armenta, Chairman, Santa Ynez Band of Chumash Mission Indians
Honorable Gray Davis, Governor
Honorable Barbara Boxer, United States Senator
Honorable Dianne Feinstein, United States Senator
Honorable Lois Capps, United States Congresswoman
Honorable Elton Gallegly, United States Congressman
Honorable Tom McClintock, California State Senator
Honorable Hannah-Beth Jackson, California State Assemblywoman
Bill Lockyer, Attorney General, California Department of Justice

Sara J. Drake, Deputy Attorney General, State of California
Peter Kaufman, Deputy Attorney General, State of California
Gregg Albright, Caltrans District 5 Director
Steve Price, Caltrans District 5
Marlene Demery, City Manager, City of Solvang
Steve Thompson, City Manager, City of Buellton
Chris Dahlstrom, Santa Ynez River Water Conservation District, Improvement
District No. 1
Bonnie Ottoman, Santa Ynez Community Services District
Santa Barbara County Airport Land Use Commission
Santa Ynez Valley Airport Authority
Diana Waterman, Waterman & Associates
Scott Morgan, Governor's Office of Planning and Research
Brenda Tomaras, California Indian Legal Services