



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: P&D
Department No.: 053
For Agenda Of: November 10, 2020
Placement: Departmental
Estimated Time: 1.0 hour
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Lisa Plowman, Director, Planning and Development
Director(s) (805) 568-2086
Contact Info: Travis Seawards, Deputy Director, Development Review
(805) 934-6559
SUBJECT: Alger Appeal of the Frampton Lot Line Adjustment/Recorded Map
Modification, Case No. 20APL-00000-00017, First Supervisorial District

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

As to form: No

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

Consider the appeal by Mr. Alger of the County Planning Commission's June 10, 2020 approval of the Frampton Lot Line Adjustment and Recorded Map Modification, Case Nos. 19LLA-00000-00003 and 19RRM-00000-00001 and take the following actions:

- a) Deny the appeal, Case Number 20APL-00000-00017;
- b) Make the required findings for approval of the project specified in Attachment 1, including CEQA findings;
- c) Adopt the Mitigated Negative Declaration 20NGD-00000-00004 pursuant to the State Guidelines for Implementation of the California Environmental Quality Act; and
- d) Grant *de novo* approval of the project, Case Nos. 19LLA-00000-00003 and 19RMM-00000-00001, subject to the conditions included as Attachment 2.

Summary Text:

A. Proposed Project

The proposed project is a request for a Lot Line Adjustment (LLA – 19LLA-00000-00003) & Recorded Map Modification (RMM – 19RMM-00000-00001) to adjust the property lines and modify the building and

development envelopes between two lots for future residential development. No structural development is currently proposed. The size of the lots would not change from 2.0 and 10.67 acres but the lot lines and building/development envelopes would change.

The building envelopes identify the location of future structures, construction storage and staging, while allowing other uses such as grading, utilities, paving, etc. to occur outside the building envelopes. The development envelopes identify the location of site preparation, ground disturbances and construction activities including those for structures, access, easements, subsurface grading, sewage disposal, and drainage components. No ground disturbance, including (a) grading; (b) vegetation removal unless required by the Carpinteria-Summerland Fire Protection District or approved as part of the Fire Fuel Management and Habitat Improvement Plan; (c) ornamental, non-native landscaping; or (d) development is allowed outside the development envelopes, except paving and utilities required for driveway access to serve the development envelopes. Lot A, which is 2.0 acres and currently has building/development envelopes of 0.29 and 0.04 acres, respectively, would have new envelopes of 0.45 and 0.28 acres. Lot B, which is 10.67 acres and currently has building/development envelopes of 0.37 and 0.12 acres, respectively, would have new envelopes of 0.60 and 0.40 acres.

The existing and proposed envelopes are in the same general location on the parcels and the envelopes have been designed to avoid slopes in excess of 30% while the majority of the slopes within the envelopes are less than 20%. Future development of the lots would be served by the Montecito Water District, private onsite wastewater treatment systems, and the Carpinteria-Summerland Fire Protection District. Access to the site would be provided via Toro Canyon Road via two existing unpaved driveways. The properties involved include a 2-acre lot and a 10.67-acre lot both zoned 10-E-1 and shown as Assessor's Lot Numbers 155-230-017 and -018 located at 785 and 805 Toro Canyon Road, in the Toro Canyon Area, First Supervisorial District.

B. Background

The two subject parcels were created by a Lot Split approved in 2001 (TPM 14,534), which established building and development envelopes for the two parcels and included conditions of approval to be applied to future residential development. The proposed Frampton Lot Line Adjustment and Recorded Map Modification was approved by the County Planning Commission on June 10, 2020. The approval adjusted the lot lines and modified the building and development envelopes on the two parcels.

On June 19, 2020, Susan Petrovich, agent for the appellant, Mr. Alger, filed a timely appeal to the Board of Supervisors. The appeal raises three main issues, which are summarized below and are followed by staff's response. As discussed below, all of the appeal issues revolve around prior activities on the property and are unrelated to the proposed Lot Line Adjustment and Recorded Map Modification. See Attachment 4 for the complete appeal application.

C. Appellant Appeal Issues and Staff Responses

Appeal Issue 1: The appellant claims that the County Planning Commission did not adequately prohibit the applicant from causing further damage to the habitat that the originally approved TPM 14,534 attempted to protect.

Staff Response: This appeal issue concerns alleged impacts that previously occurred to habitat areas of the property outside of the designated development envelopes; however, these impacts are not directly

related to the proposed project under review. As described above, the current project proposes a lot line adjustment and modification of building and development envelopes on two legal vacant parcels. No development is proposed as part of this project. The project description and conditions of approval are explicit on what development is allowed within and beyond the envelopes: no new development is allowed outside the envelopes except paving and utilities required for driveway access to serve the envelopes. Deviation from these conditions of approval would result in a zoning violation. The TPM 14,534 project description stated that "All construction, grading and other site disturbance associated with development of the proposed lots would be limited to these designated envelopes." The project description of TPM 14,534 and associated conditions of approval were written in a way as to only apply to future residential development.

The proposed project is conditioned with mitigation measures to protect sensitive species on site in a way that is more restrictive and more protective of sensitive habitat areas than what is currently permitted by the approved TPM. The proposed conditions include protections for Santa Barbara honeysuckle, Nuttall's oak trees, California Walnut trees, chaparral, and coastal sage scrub by mapping species occurrence on construction plans (Attachment 2, Condition 7 MM Bio-1a), delimiting work areas with construction fencing prior to ground disturbance (Attachment 2, Condition 8 MM Bio-1b) and fire fuel management activities (Attachment 2, Condition 9 MM Bio-1c), implementation of a Fire Fuel Management and Habitat Improvement Plan (Attachment 2, Condition 11 MM Bio-2b), restricting landscaping to native, locally occurring species (Attachment 2, Condition 12 MM Bio-2c), and conducting a pre-construction surveys (Attachment 2, Condition 14 & 15 MM Bio-4a & 4b). Finally, mitigation monitoring is required to ensure that future development of the two lots complies with all approved plans and all project conditions including those which must be monitored after the lots are developed and occupied (Attachment 2, Condition 32). These conditions of approval would become effective once the LLA and RMM are recorded. While most of these mitigation measures would not be implemented until the time of future development, the project description prohibiting ground disturbance, including grading and vegetation removal, outside of the development envelopes would be in effect the moment the new map records. As such, the proposed project is more protective of site resources than the existing approval.

Appeal Issue 2: The appellant claims that the County Planning Commission did not require removal of the non-native invasive plants that the applicant previously planted. The appellant requests that the non-native invasive plants be replaced with native vegetation and the upper mesa habitat area restored.

Staff Response: Prior impacts associated with the planting of non-native vegetation within the property are unrelated to the proposed Lot Line Adjustment and Recorded Map Modification, which occur approximately 300 feet away from the upper mesa area. For CEQA purposes, existing plantings on site are considered the baseline for analysis of the proposed project. The non-native plants in question are located outside of the existing or proposed development envelopes. As part of the proposed project, no development is allowed outside the envelopes except paving and utilities required for driveway access to serve the envelopes. As stated previously, the project is conditioned to select native locally occurring species where feasible and no new non-native ornamental landscaping is permitted outside of the development envelopes (Attachment 2, Condition 12). Further, prior to Land Use Permit Issuance for development on either parcel, a Fire Fuel Management and Habitat Improvement Plan is required to specifically address methods to protect the Environmentally Sensitive Habitat and species within the Fire Fuel Management Zone (FFMZ) and throughout the remainder of the property outside of the Development Envelopes (Attachment 2, Condition 11). Thus, the Planning Commission approval strengthens the

restrictions against non-native invasive plantings in the future, both inside and outside of the development envelopes.

Appeal Issue 3: The appellant claims that the County Planning Commission did not require removal of the road to and across the steeply sloped upper mesa on the property which displaced native vegetation with non-native invasive plants.

Staff Response: This appeal issue is in reference to an existing driveway that traverses Lot 2 and ends at the upper section of the parcel several hundred feet away from the existing and proposed development envelope. While no new development is proposed outside of envelopes as part of this project, removal of the existing road to and across the upper mesa on the property is beyond the scope of the proposed project as it is not impacted by the lot line adjustment nor the modifications to the map proposed by the Applicant. Driveways that are not required to have a Building Permit or Grading Permit are exempt from zoning permits in accordance with LUDC Section 35.20.040.B.16.c. The driveway had existed for some time and was recently improved in 2017 with the approval of an Erosion Control Permit from the Building & Safety Division (17GRD-00000-00016). No other permits were required at the time for the driveway work. From a CEQA perspective, is considered part of the baseline condition on the parcel and the MND is not required to analyze the road for the proposed Lot Line Adjustment and Recorded Map Modification. The envelopes are designed to confine future development, and the conditions of approval impose further controls to limit lighting and landscaping outside of the envelopes. Finally, as discussed above for Appeal Issues 1 and 2, prior activity on the site is unrelated to the proposed project.

Fiscal and Facilities Impacts:

Budgeted: Yes

Total costs for processing the appeal are approximately \$10,000.00 (40 hours of staff time). The costs for processing appeals are partially offset by a fixed appeal fee and General Fund subsidy in Planning and Development's adopted budget. The fixed appeal fee was paid by the appellant in the amount of \$685.06. Funding for processing this appeal is budgeted in the Planning and Development Department's Permitting Budget Program, as shown on page D-294 of the County of Santa Barbara Fiscal Year (FY) 2020-21 adopted budget.

Special Instructions:

Planning & Development shall publish a legal ad at least 10 days prior to the hearing on November 10, 2020. The legal ad shall appear in the Santa Barbara News-Press. Planning and Development shall fulfill all noticing requirements. A minute order of the hearing and copy of the notice and proof of publication shall be returned to Planning and Development, attention David Villalobos. A second minute order of the hearing shall be returned to Planning and Development, attention Travis Lee.

Attachments:

1. Board of Supervisor Findings
2. Conditions of Approval for Cases 19LLA-00000-00003 & 19RMM-00000-00001
3. Revised Final Mitigated Negative Declaration 20NGD-00000-00004
4. Appeal Application to the Board of Supervisors
5. Planning Commission Staff Report, dated May 14, 2020
6. Planning Commission Memo, dated June 8, 2020
7. Planning Commission Action Letter dated June 18, 2020

8. Project Plans

Authored by:

Travis Lee, Planner, (805) 568-2046
Development Review Division, Planning and Development Department

cc: