

**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: June 27, 2006
Department Name: P&D
Department No.: 053
Agenda Date: July 11, 2006
Placement: Administrative
Estimate Time: N/A
Continued Item: NO
If Yes, date from:
Document File
Name:

TO: Board of Supervisors

FROM: **Dianne Meester, Assistant Director**
Planning and Development

STAFF **Steve Chase, Deputy Director**
CONTACT: 568-2520

SUBJECT: **Accept offer of (1) a Grant of Open Space Easement and (2) a Grant of Trail Easement from JWM Trust (“Grantor”) to the County of Santa Barbara (“Grantee”) for portions of Assessor’s Parcel Numbers 065-240-019 and 065-240-020, 4865 Vieja Drive in the More Mesa area of the Goleta Community Plan Area, Second Supervisorial District**

Recommendation(s):

That the Board of Supervisors:

- A. Adopt the resolution of findings (Attachment A) accepting and approving the Grant of Open Space Easement (Exhibit A1 to the resolution).
- B. Adopt the resolution of findings (Attachment B) accepting and approving the Grant of Open Space Easement (Exhibit B1 to the resolution).
- C. Authorize the Chair to sign the resolutions and the certificates of acceptance for the Grant of Open Space Easement and Grant of Trail Easement and direct their recordation.

Alignment with Board Strategic Plan:

Goal 5

The recommendation(s) are primarily aligned with Goal No. 5. A High Quality of Life for All Residents.

Executive Summary and Discussion:

Background

On February 15, 2005, the County of Santa Barbara Board of Supervisors approved a Vesting Tentative Tract Map (Case No. 02TRM-00000-00002), Lot Line Adjustment (Case No. 02LLA-00000-00002), Development Plan (Case No. 02DVP-00000-00002), and Coastal Development Permit (04CDP-00000-00087) for the Hacienda Vieja project. The proposed Vesting Tentative Tract Map would subdivide Parcel 1 (APN 065-240-019, as reconfigured by the Lot Line Adjustment) into five lots, including four residential lots intended for private ownership and one lot owned in common by all prospective property owners. The Coastal Development Permit is required for the subdivision in the Coastal Zone. Construction of four two-story detached single family residences is proposed under the Development Plan. The proposed project is located at 4865 Vieja Drive, adjacent to More Mesa in the Goleta Community Plan Area, Second Supervisorial District.

The following conditions of approval were required by the County for approval of each permit:

8. An open space easement reviewed and approved by P&D and County Counsel for Hacienda Vieja (four lot) site wetland and 100-foot buffer area shall be dedicated to Santa Barbara County and/or may also be dedicated to an applicable non-profit entity and shall remain in open space and be insured as such by conditions of approval. Split rail fencing, no greater than 4 feet in height, or other P&D-approved permanent marker shall be used to delineate the open space easement area. Appropriate signage (acceptable to the holder of the easement, such as "Protected Open Space Easement") shall be required to help prevent development not in compliance with the approved wetlands restoration/ revegetation plan. The CDP for physical development shall not be issued until the easement is recorded on the property title and fencing and signage is installed. **Plan Requirements and Timing:** Prior to recordation, an agreement to dedicate shall be submitted for review and approval by P&D and County Counsel. The easement shall be recorded concurrently with recordation of the tentative map. Fencing and signage shall be installed prior to the first occupancy clearance.

27. The applicant shall dedicate a 15-foot wide trail easement along the western border of the subject property to the County in perpetuity. No fencing or new landscaping other than ground covering shall encumber this 15-foot wide easement. Upon development of the future trail, the perimeter of the wetlands area east of the trail easement shall be permanently fenced so that pedestrian access is denied to the wetlands. **Plan Requirements:** The easement document and landscape plan shall be reviewed and approved by P&D, County Counsel, and the Park Department prior to recordation of the Tentative Tract Map and/or prior to approval of the Coastal Development Permit for the proposed development, whichever occurs first.

After the County permits were approved, the Coastal Development Permit 04CDP-00000-00087 was appealed to the California Coastal Commission. On November 16, 2005, the Coastal Commission denied the appeal and approved the Coastal Development Permit subject to the following additional conditions regarding the Grant of Open Space Easement and Grant of Trail Easement:

2. Open Space Easement

The open space easement required by Santa Barbara County Condition 8 of approval for the Tentative Vesting Tract Map (02TRM-00000-00002), Development Plan (02DVP-00000-00002), and Coastal Development permit (04CDP-00000-00087) shall include the wetland and 100-foot wetland buffer areas on Parcel 1 (APN 065-240-020) as reconfigured by the proposed lot line adjustment (02LLA-00000-00002), excluding that portion of the buffer on Parcel 2 occupied by the existing residence, lawn, and patio, as generally shown on Exhibit 9. The open space easement shall be dedicated to Santa Barbara County and/or may also be dedicated to a non-profit entity acceptable to the Executive Director.

No development, as defined in Section 30106 of the Coastal Act, shall occur within the areas of the proposed open space easement, except for the following activities, if approved through the subject Coastal Development Permit, an amendment to the Coastal Development Permit, or through a separate Coastal Development Permit: removal of horse corral and associated structures; habitat restoration; installation, repair, or upgrading of utilities; construction of water quality management structures; erosion control management; public access trails and associated appurtenances; reconstruction, repair, or maintenance of proposed bioswales; existing easements for roads, trails, and utilities; or maintenance and repair activities pursuant to an approved management and maintenance program.

Prior to recordation of the open space easement, the applicant shall submit to the Executive Director, for review and approval, a proposed grant of easement or offer to dedicate the open space easement to Santa Barbara County and/or non-profit entity acceptable to the Executive Director in conformance with the requirements specified in condition 8 of Santa Barbara County's approval, that includes a legal description and graphic depiction of the easement area and restrictions on development set forth above.

Prior to recordation of the open space easement, the applicant shall submit to the Executive Director, for review and approval, documentation demonstrating that the open space easement has been executed and recorded in conformance with the requirements outlined above and specified in Santa Barbara County's conditions of approval.

Prior to occupancy of the residences, the applicant shall install split rail fencing, no greater than 4 feet in height, or other P&D-approved permanent marker, to delineate the open space easement area. Appropriate signage (acceptable to the holder of the easement and the Executive director, such as "Protected Open Space Easement") shall be installed by the applicant to help prevent development not in compliance with the approved wetlands restoration/ revegetation plan and prevent harm to the native wetland habitat.

3. Public Access Easement

The 15-foot wide public trail easement required by Santa Barbara County Condition 27 for approval of Tentative Vesting Tract Map (02TRM-00000-00002), Development Plan (02DVP-00000-00002) and Coastal Development Permit (04CDP-00000-00087) shall be dedicated to the county in perpetuity. No development, as defined in Section 30106 of the Coastal Act, including signage, fencing, or new landscaping other than groundcover which will prohibit or otherwise restrict public pedestrian or bicycle access along the identified public access corridor shall be permitted, except where an approved Coastal Development Permit is issued for necessary temporary disruptions such as: construction, reconstruction, or maintenance of the trail; maintenance of underground utilities, drainage devices, erosion control and repair; and maintenance and repair activities. Prior to issuance of the certificates of occupancies for any of the residences, the applicant shall install permanent split rail or equivalent fencing along the perimeter of the wetlands area east of the trail easement so that access from the subject properties is denied to the wetlands. In order to not impede the movement of wildlife through the area, the minimum distance from ground level to any fence's first rung shall be 18 inches.

Prior to recordation of the grant of a public trail easement, the applicant shall submit to the Executive Director, for review and approval, a proposed easement that conforms with the requirements specified in Condition 27 of the County of Santa Barbara's approval and includes the restrictions set forth above and a legal description and graphic depiction of the easement area.

Prior to issuance of the Coastal Development Permit, the applicant shall submit to the Executive Director, for review and approval, documentation demonstrating that the public trail easement reviewed and approved by the Executive Director as specified above has been executed and recorded in conformance with the requirements outlined above and specified in Santa Barbara County's conditions of approval.

Findings

The following findings are required by the County to accept the Open Space Easement per Section 51084 of the Government Code:

“No grant of an Open Space Easement shall be accepted or approved by a county or city, unless the governing body, by resolution finds:

- (a) That the preservation of the land as open space is consistent with the general plan of the county or city; and
- (b) That the preservation of the land as open space is in the best interest of the county or city and specifically because one or more of the following reasons exist:
 - (1) That the land is essentially unimproved and if retained in its natural state has either scenic value to the public, or is valuable as a watershed or as a wildlife preserve, and the instrument contains appropriate covenances to that end.
 - (2) It is in the public interest that the land be retained as open space because such land either will add to the amenities of living in neighboring urbanized areas or will help preserve the rural character of the area in which the land is located.
 - (3) The public interest will otherwise be served in a manner recited in the resolution and consistent with the purposes of this Final Development Plan and Section 8 of Article XIII of the constitution of the State of California.

The resolution of the governing body shall establish a conclusive presumption that the conditions set forth in subdivision (a) and (b) have been satisfied.”

Preservation of the open space would be consistent with the County’s Comprehensive Plan including the Goleta Community Plan and the Coastal Land Use Plan. Preservation of this open space would set aside an important wetland area on the northern edge of More Mesa, an open space area of regional importance. The preservation of a portion of the site is in the best interest of the County because, in its unimproved state, it has scenic and biological value and will provide passive recreational opportunities to residents of the surrounding urban area and of the proposed urban development.

Procedures

Section 51057 of the Government code states:

“The governing body of the city or county shall not accept any grant of open-space easement until the matter has first been referred to the city or county planning department or Planning Commission. Within 30 days after receiving the proposal to accept a grant of open-space easement, the planning department or Planning Commission shall submit its report to the governing body. The governing body may extend the time for submitting such a report of an additional period not exceeding 30 days. The report shall contain a statement that the proposal is or, is not, consistent with the General Plan of the jurisdiction.”

The Board of Supervisors approved the proposed project including the conditions of approval on February 15, 2005. The California Coastal Commission affirmed that approval on appeal on November 16, 2005. The attached resolution indicates that the proposed open space easement is consistent with the County’s Comprehensive Plan, including the Coastal Land Use Plan and the Goleta Community Plan.

Mandates and Service Levels:

The Vesting Tentative Tract Map (Case No. 02TRM-00000-00002), Lot Line Adjustment (Case No. 02LLA-00000-00002), Development Plan (Case No. 02DVP-00000-00002), and Coastal Development Permit (04CDP-00000-00087) were approved with conditions requiring that the applicant enter and record a Grant of Open Space Easement and Grant of Trail Easement (Attachment C). The acceptance and recordation of these documents will satisfy the requirements of the conditions. As a result of an appeal to the California Coastal Commission, the California Coastal Commission also requires that the applicant enter and record these easements (see Attachment D). The acceptance of these documents will not affect County levels of service.

Fiscal and Facilities Impacts:

The County of Santa Barbara is not obliged to maintain, improve, or otherwise expend funds in connection with the Grant of Open Space Easement and with the Grant of Trail Easement.

Special Instructions:

Clerk of the Board will forward the executed documents to the County Clerk for recordation. Clerk of the Board will also forward a copy of the executed documents to Michelle Gibbs, Planner in the County Planning and Development Department.

Concurrence: County Counsel

ATTACHMENTS:

- A Board Resolution for the Open Space Easement
- Exhibit A1 Grant of Open Space Easement (including a separate Exhibit C which describes the project location)
- B Board Resolution for the Trail Easement
- Exhibit B1 Grant of Trail Easement (including a separate Exhibit C which describes the project location)
- C Project Conditions of Approval for Vesting Tentative Tract Map, Lot Line Adjustment, Development Plan, and Coastal Development Permit
- D Approval letter from the California Coastal Commission

Prepared by: Michelle Gibbs, Planner III (ext. 3508)
Planning and Development Department
Development Review Division South

ATTACHMENT A

RESOLUTION OF THE BOARD OF SUPERVISORS COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

IN THE MATTER OF ACCEPTING
A GRANT OF OPEN SPACE
EASEMENT ON A PORTION OF
APN 065-240-019 AND 065-240-020

) RESOLUTION NO.
) CASE NOS. 02TRM-00000-
)00002/02LLA-00000-00002/02DVP-
)00000-00087

WITH REFERENCE TO THE FOLLOWING:

- A. Grantor is the owner and applicant for development approvals on certain real property, located in the unincorporated area of the County of Santa Barbara, commonly known as 4865 Vieja Drive, in the More Mesa Area in the Goleta Community Plan Area, California (hereinafter “The Property”).
- B. Grantor has applied for and obtained approval by the County of a Vesting Tentative Tract Map (02TRM-00000-00002), Lot Line Adjustment (02LLA-00000-00002), and Development Plan (02DVP-00000-00002), and has obtained approval by the County and California Coastal Commission of the Coastal Development Permit (04CDP-00000-00087), to develop five lots, including four lots for residential development and one lot for common open space, and to allow construction of four detached two-story single family residences.
- C. A Negative Declaration (04NGD-00000-00011) was prepared for the proposed project pursuant to CEQA which concluded that the proposed easement area constituted a wetland which should be preserved to offset biological impacts.
- D. The Negative Declaration concluded that any potential impacts the project could have on the wetland could feasibly be mitigated, in whole or in part, through the preservation of this habitat in a substantially undisturbed natural state.
- E. Grantor and the County desire to protect and preserve wetland habitat by the dedication to the County of an Open Space Easement, attached as Exhibit A1.
- F. It is now deemed in the interest of the orderly development of the County and important to the preservation of the health, safety, and general welfare of the residents of said County to approve the Grant of Open Space Easement.
- G. The Board of Supervisors heard and considered the evidence regarding the consistency of the offer of the grant of easement with the County’s Comprehensive Plan, including the Coastal Land Use Plan and the Goleta Community Plan, during consideration of the Vesting Tentative Tract Map, Lot Line Adjustment, Development Plan, and Coastal Development Permit.

H. In conditionally approving the Tentative Tract Map, Lot Line Adjustment, Development Plan, and Coastal Development Permit with the required condition that an easement shall be dedicated to the County which would protect the wetland habitat, the Board of Supervisors recommends that the Board can make the findings required by Government Code Section 51084 to accept the Open Space Easement.

I. The Board makes the following findings as required by Government Code Section 51084:

1. That the preservation of the land as open space is consistent with the Comprehensive Plan and the Coastal Land Use Plans of the County.
2. The portion of the property subject to an open space easement is essentially unimproved and if retained in its natural state is valuable as a wetland habitat and the Grant of Open Space Easement contains appropriate covenants to that end.

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

1. The above restrictions are true and correct;
2. Pursuant to the provisions of Section 51084 of the Government Code, the above described findings are made and the Grant of Open Space Easement is approved and accepted.
3. Pursuant to Government Code Section 51080 *et. seq.*, the Chair of the Board of Supervisors and the Clerk of this Board are hereby authorized and directed to sign and certify all map, documents, and other materials in accordance with this resolution to show the above mentioned action by the Board.

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this ____ day of _____ 2006, by the following vote:

AYES:

NOES:

ABSENT:

Chair, Board of Supervisors

ATTEST:

Michael F. Brown
Clerk of the Board of Supervisors

By: _____
Deputy Clerk-Recorder

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APPROVED AS TO FORM:
STEPHEN SHANE STARK
County Counsel

By: _____
Deputy County Counsel

EXHIBIT A1

GRANT OF OPEN SPACE EASEMENT

WITH ATTACHED EXHIBITS:

- A: Legal Description of the Property
- B: California Coastal Commission Staff Report on the Appeal
- B1: California Coastal Commission Notice of Intent to Issue Permit
- C: Legal Description and Exhibit of Open Space Easement
- D: Definition of “development” according to the California Coastal Act

ATTACHMENT B

RESOLUTION OF THE BOARD OF SUPERVISORS COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

IN THE MATTER OF ACCEPTING) RESOLUTION NO.
A GRANT OF TRAIL) CASE NOS. 02TRM-00000-
EASEMENT ON A PORTION OF)00002/02LLA-00000-00002/02DVP-
APN 065-240-019 AND 065-240-020)00000-00087

WITH REFERENCE TO THE FOLLOWING:

- A. Grantor is the owner and applicant for development approvals on certain real property, located in the unincorporated area of the County of Santa Barbara, commonly known as 4865 Vieja Drive, in the More Mesa Area in the Goleta Community Plan Area, California (hereinafter “The Property”).
- B. Grantor has applied for and obtained approval by the County of a Vesting Tentative Tract Map (02TRM-00000-00002), Lot Line Adjustment (02LLA-00000-00002), and Development Plan (02DVP-00000-00002), and has obtained approval by the County and California Coastal Commission of the Coastal Development Permit (04CDP-00000-00087), to develop five lots, including four lots for residential development and one lot for common open space, and to allow construction of four detached two-story single family residences.
- C. A Negative Declaration (04NGD-00000-00011) was prepared for the proposed project pursuant to CEQA which concluded that the proposed easement area is mapped as one of the general corridors adopted by the Board of Supervisors as part of the Parks, Recreation and Trails (PRT) maps of the County Comprehensive Plan and the Goleta Community Plan.
- D. The Negative Declaration concluded that any potential impacts the project could have on the future recreational use of this area could feasibly be mitigated, in whole or in part, through the dedication of this area as a trail easement.
- E. Grantor and the County desire to ensure the recreational use of this area by the dedication to the County of a Trail Easement, attached as Exhibit B1.
- F. It is now deemed in the interest of the orderly development of the County and important to the preservation of the health, safety, and general welfare of the residents of said County to approve the Grant of Trail Easement.

G. The Board of Supervisors heard and considered the evidence regarding the consistency of the offer of the grant of easement with the County’s Comprehensive Plan, including the Coastal Land Use Plan and the Goleta Community Plan, during consideration of the Vesting Tentative Tract Map, Lot Line Adjustment, Development Plan, and Coastal Development Permit.

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

1. The above restrictions are true and correct;
2. Pursuant to Government Code Section 51080 *et. seq.*, the Chair of the Board of Supervisors and the Clerk of this Board are hereby authorized and directed to sign and certify all map, documents, and other materials in accordance with this resolution to show the above mentioned action by the Board.

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this ____ day of _____ 2006, by the following vote:

AYES:

NOES:

ABSENT:

Chair, Board of Supervisors

ATTEST:

Michael F. Brown
Clerk of the Board of Supervisors

By: _____
Deputy Clerk-Recorder

APPROVED AS TO FORM:
STEPHEN SHANE STARK
County Counsel

By: _____
Deputy County Counsel

EXHIBIT B1

GRANT OF TRAIL EASEMENT

WITH ATTACHED EXHIBITS:

- A: Legal Description of the Property
- B: California Coastal Commission Staff Report on the Appeal
- B1: California Coastal Commission Notice of Intent to Issue Permit
- C: Legal Description and Exhibit of Trail Easement
- D: Definition of “development” according to the California Coastal Act

ATTACHMENT C

PROJECT CONDITIONS OF APPROVAL

ATTACHMENT D

APPROVAL LETTER FROM THE CALIFORNIA COASTAL COMMISSION

G:\GROUP\PERMITTING\CASE FILES\TRM\02 CASES\02TRM-00000-00002 HACIENDA VIEJA\MAP CLEARANCE\BOS APPROVAL OF OPEN SPACE
& TRAIL EASEMENTS\BS_LTR_TRAIL & OPEN SPACE.DOC