



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: July 17, 2018
Placement: Departmental
Estimated Time: 1.0 hr
Continued Item: Yes
If Yes, date from: 11/22/16
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Director Dianne M. Black, Director, Planning & Development
(805) 568-2086
Contact Info: Jeff Wilson, Deputy Director, Development Review Division
(805) 568-2518
SUBJECT: Myers Appeal (16APL-00000-00021) of the County Planning Commission's Denial
of the Myers Secondary Access Road and Bridge Project
Case No. 16LUP-00000-00109, First Supervisorial District

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

Consider the appeal by Barton and Victoria Myers of the County Planning Commission deemed denial (2:2 vote) of the following request:

Case No. 16LUP-00000-00109 to allow construction of a secondary access road and bridge at 949 Toro Canyon Road, in compliance with Section 35.102 [Appeals] of the County Land Use and Development Code on property zoned MT-TORO-100.

Staff recommends that your Board deny the project by taking the following actions:

- a) Deny the appeal, Case No. 16APL-00000-00021;
- b) Make the required findings for denial of the project (Case No. 16LUP-00000-00109) as specified in Attachment 1 of this board letter, including CEQA findings;
- c) Determine the denial of the project is exempt from CEQA pursuant to CEQA Guidelines Section 15270, included as Attachment 2; and
- d) Deny *de novo* the project, Case No. 16LUP-00000-00109.

Alternatively, in order to approve the project, the following actions are recommended:

- a) Approve the appeal, Case No. 16APL-00000-00021;
- b) Make the required findings for approval of the project as specified in Attachment 4, including CEQA findings;
- c) Adopt the Mitigated Negative Declaration, 18NGD-00000-00004, included as Attachment 7, and adopt the mitigation monitoring program contained in the conditions of approval;
- d) Approve *de novo* the project, Case No. 16LUP-00000-00109, subject to the conditions of approval included in Attachment 6 (Land Use Permit).

The application involves Assessor's Parcel Number (APN) 155-020-004, located at 949 Toro Canyon Road in the Toro Canyon area of the First Supervisorial District.

Summary Text:

The proposed project would permit construction of a secondary access road, including a new bridge. The proposed secondary access road would be located entirely within an Environmentally Sensitive Habitat (ESH) area designated in the Toro Canyon Plan, within the riparian corridor in this mountainous area along the East Branch of Toro Creek. A land use permit and grading permit are required for grading and construction of the proposed road and bridge. The proposed secondary access road was partially graded in 2015 without permits and remains a zoning violation case. The applicant filed Case No. 16LUP-00000-00109 to permit grading and construction of the road, including the new bridge. The applicant is required to either obtain a Land Use Permit to permit the secondary access road or to restore the area that was previously graded, consistent with County and other agency requirements.

Background:

On April 13, 2016, the Land Use Permit was denied by Planning & Development. The Myers appealed the Planning & Development permit denial to the County Planning Commission (PC). On August 10, 2016, the PC considered the Myers' appeal of the Land Use Permit denial and voted 2:2 on the appeal, which is deemed a denial under the Santa Barbara County Planning Commission Procedures Manual (see the PC Action Letter, included as Attachment 6 of Attachment 9 of this Board Letter). On November 22, 2016, the appeal of the PC action was presented to the Board of Supervisors, with a recommendation for denial of the appeal and *de novo* denial of the project. The Board of Supervisors referred the project back to Planning and Development and directed staff to complete environmental review and to return for Board of Supervisors with findings for approval and denial (see the Board of Supervisors Minute Order, included as Attachment 8).

Since the Board's hearing in November 2016, staff has worked with the applicant and other agencies regarding documentation of biological resources onsite, impacts from past and proposed road and bridge work, preparation and review of a proposed restoration plan and coordination with Carpinteria-Summerland Fire Protection District and County Flood Control. If the project is approved by the Board of Supervisors, the proposed bridge and secondary access road will be permitted, plan checked, inspected and stamped approved by Carpinteria Summerland Fire Protection District (Todd Jenkins,

email dated June 12, 2018 and phone call June 28, 2018) in addition to Santa Barbara County Building and Safety through the normal grading and building permit process.

Consistent with Board's direction on November 22, 2016, staff has completed environmental review for the project. The Mitigated Negative Declaration 18NGD-00000-00004 (MND), included as Attachment 7, was circulated for the required 30-day public comment period from June 1 to July 2, 2018. The MND acknowledges changes to the creek channel, riparian corridor and oak woodland onsite, which resulted from the Thomas Fire and the January 9, 2018 debris flow events. Changes include erosion of the creek's banks in the area of the bridge and loss/damage to native vegetation from the fire and from removal by fire personnel to create fuel breaks. The MND identified potentially significant impacts primarily related to biological resources, water quality and drainage/flooding from the short-term construction period, long-term fuel modification requirements along both sides of the road, changes to drainage patterns and peak storm runoff, and adequacy of the bridge design to meet Flood Control District standards thereby avoiding onsite and downstream flooding hazards. The MND includes mitigation measures to protect/offset impacts to biological resources, measures to minimize erosion and impacts to the water quality of Toro Canyon Creek, as well as to ensure the bridge is designed to avoid flooding hazards per applicable standards. No comments were received on the Draft MND. The language of some mitigation measures has been slightly revised to provide clarity and/or to comply with the County's standard condition language. All text changes to the MND are shown with underline and ~~strike-out~~ text.

Staff continues to recommend denial of the appeal for the reasons discussed in the Board Agenda Letter and attachments for the November 22, 2016 Board hearing (Attachment 9), and in the Findings for Denial (Attachment 1). During the Thomas Fire, fire fighters were able to create fuel breaks on the property to slow the fire's progress. Emergency vehicles accessed the property using the primary access road and firefighters also used the proposed secondary access route to pull fire hose and tools to remove vegetation onto the property. The proposed access road route could continue to be used in this manner without the proposed grading, paving and bridge improvements, even if restoration is implemented, particularly since Planning and Development would coordinate with Carpinteria-Summerland Fire Protection District in review of a restoration plan.

Pursuant to the Board's direction on November 22, 2016, staff has also prepared documents that support approval of the project, as follows:

- Findings for Approval (Attachment 4);
- Comprehensive Plan/Land Use Development Code Consistency Analysis for Approval (Attachment 5);
- Land Use Permit with Conditions (Attachment 6); and
- Proposed Final Mitigated Negative Declaration (Attachment 7).

Fiscal and Facilities Impacts:

Budgeted: Yes At the prior Board of Supervisors hearing on this appeal, the Board directed staff to complete environmental review and return to the Board of Supervisors, “with all costs for environmental review, including staff time, to be paid for by the applicant.” The fees paid by the applicant are budgeted in the Permitting Budget Program of the Department, as shown on page D-272 of the adopted FY 2018-19 budget.

Special Instructions:

The Clerk of the Board shall publish a legal notice at least 10 days prior to the July 17, 2018 hearing. The notice shall appear in the Santa Barbara News-Press. The Clerk of the Board shall fulfill noticing requirements using the attached labels. 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.

Attachments: Findings for Denial

2. CEQA Exemption for Denial
3. Applicant Appeal to Board of Planning Commission Appeal Action
4. Findings for Approval
5. Comprehensive Plan/Land Use Development Code Consistency Analysis for Approval
6. Land Use Permit with Conditions
7. Mitigated Negative Declaration
8. Board of Supervisors Minute Order for November 22, 2016
9. 2016 Board Agenda Letter for Appeal of County Planning Commission Denial of the Myers Bridge project, Case No. 16LUP-00000-00109/16APL-00000-00012
10. Project Plans

Authored by:

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