



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 and  
Development  
**Department No.:** 053  
**For Agenda Of:** May 3, 2016  
**Placement:** Set Hearing on 4/19/16  
for 5/3/16  
**Estimated Time:** 45 minutes on 5/3/16  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

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**TO:** Board of Supervisors  
**FROM:** Department Director(s) Glenn Russell, Ph.D., Director, Planning & Development  
(805) 568-2085  
Contact Info: Dianne Black, Assistant Director, Planning & Development  
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**SUBJECT:** Set Hearing to consider the Urbany/Pinkham Appeal (Case No. 15APL-00000-00017) of the County Planning Commission's approval of the Bonillo New SFD (Case Nos. 14LUP-00000-00144 & 14BAR-00000-00063), First Supervisorial District

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**County Counsel Concurrence**

As to form: Yes

**Auditor-Controller Concurrence**

As to form: N/A

**Other Concurrence:** N/A

**Recommended Actions:**

On April 19, 2016, set a hearing for May 3, 2016 to consider Case No. 15APL-00000-00017, an appeal filed by Bill and Lara Urbany and Audrey Pinkham of the County Planning Commission's approval of the Bonillo New SFD project (Case Nos. 14LUP-00000-00144 and 14BAR-00000-00063).

On May 3, 2016, staff recommends that your Board take the following actions:

- a) Deny the appeal, Case No. 15APL-00000-00017;
- b) Make the required findings for approval of the project, case numbers 14LUP-00000-00144 and 14BAR-00000-00063, included as Attachment 1, including CEQA findings;
- c) Determine that approval of the project is exempt from CEQA pursuant to CEQA Guidelines Section 15303, as specified in Attachment 3; and
- d) Grant *de novo* approval of the project, case numbers 14LUP-00000-00144 and 14BAR-00000-00063, subject to the conditions included as Attachment 2 of this Board Letter;

The property is a 0.18-acre parcel zoned 7-R-1 and shown as Assessor's Parcel Number 023-172-001, located at 849 Cheltenham Road in the Mission Canyon area, First Supervisorial District.

### **Summary Text:**

The project is for a Land Use Permit and Preliminary Design Review to allow construction of a new approximately 2,907 square foot [gross]/2,338 square foot [net] two-story single-family dwelling with an attached 539 square foot garage. Grading would include approximately 130 cubic yards of cut and 120 cubic yards of fill. A total of four avocado trees are proposed for removal. The parcel would be served by the City of Santa Barbara for water and sewer services, the Santa Barbara County Fire Department, and the Santa Barbara County Sheriff's Department. Access would be provided off of Cheltenham Road. The property is a 0.18-acre parcel zoned 7-R-1 and shown as Assessor's Parcel Number 023-172-001, located at 849 Cheltenham Road in the Mission Canyon area, First Supervisorial District. There has been no change to the proposed project since the September 2, 2015, 5-0 approval by the County Planning Commission.

### **Background:**

The project on appeal before the Board was reviewed by the South County Board of Architectural Review (SBAR) on four separate occasions at a conceptual level: April 4, 2014; October 17, 2014; December 5, 2014, and January 9, 2015. The SBAR members acknowledged the sensitivity of the drainage issue and indicated that they wished to address the matter during their "preliminary" review/approval. On February 20, 2015, the applicants returned to the SBAR with each of the items the Board had previously requested. The engineered grading and drainage plan had been developed by Michael J. Gerenser (Civil Engineer) and the landscape plan had been developed by Courtney J. Miller (Licensed Landscape Architect). At this hearing, the project received a unanimous 7-0 vote to grant "preliminary" approval to the project. The SBAR members commented that the project had improved and that a good deal of effort had gone into simplifying the architecture, stepping the house back, and lowering the building.

Upon the SBAR's "preliminary" approval of 14BAR-00000-00063 on February 20, 2015, P&D subsequently approved the associated Land Use Permit 14LUP-00000-00144 on the same date. On February 27, 2015, the appellants (Bill and Lara Urbany) submitted a timely appeal addressing the BAR's decision to grant "preliminary" approval to Case No. 14BAR-00000-00063 and P&D's approval of the associated Land Use Permit (Case No. 14LUP-00000-00144).

The Urbany Appeal (Case No. 15APL-00000-00004) was heard by the County Planning Commission on July 22, 2015 before being continued for further review, including the installation of story-poles, to the hearing date of September 2, 2015. At the September hearing, the Commission unanimously denied the Urbany Appeal and granted *de novo* approval to the Bonillo New SFD project. On September 14, 2015, the appellants (Bill and Lara Urbany and Audrey Pinkham) submitted a timely appeal of the Commission's decision. Facilitation efforts conducted by the County with both the appellants and the applicants failed to resolve the appeal issues and the project is now before the Board for a final decision.

The appellants, Bill & Lara Urbany and Audrey Pinkham, have submitted Exhibits along with their appeal application (included as Attachment 5) that identify and explain the specific issue areas that constitute the grounds for their appeal. These issues have been summarized below and are followed by staff's response. The overarching argument of the current appeal again pertains to the same two issue areas as the previous appeal to the County Planning Commission (Case No. 15APL-00000-00004): 1) overall site drainage, and 2) neighborhood compatibility associated with the overall height and massing of the structure.

The specific drainage issue that the appellants cite has been determined by Public Works to involve illegal work that occurred within the County road right-of-way in front of the Urbany's property. The unpermitted work redirected water that has historically exited onto the Urbany property from an 18" County-installed corrugated metal pipe (CMP) onto the subject property by intercepting the water and routing it via an undersized 12" pipe and rock-lined channel onto the upper portion of the subject lot rather than allowing it to sheet-flow overland as it historically did (see Attachment 6). After a review of County records, which included review of the July 1947 County Road Log, Mission Canyon Heights (Attachment 7), a 1985 Public Works Agreement for Acquisition of Property (see Exhibit C of Attachment 8), and a January 26, 2005 request from Lara Urbany that the CMP be plugged due to the water running onto her property (see Attachment 9), Public Works staff determined that the work within the road right-of-way constitutes a violation of Chapter 28 of the County Code and Ordinance 1491.

On January 7, 2016, Public Works sent a letter to Lara Urbany directing that the illegal alteration to the CMP be removed within 10 days. On January 19, 2016, Public Works gave the Urbanys a 30-day time extension in order to explore their options. On February 4, 2016, the Urbanys were given an additional time extension to March 4, 2016 to resolve the violation. On March 4, 2016, the County received a letter from Marc Chytilo, attorney for the Urbanys, challenging the County's determination that the connection of the 12" pipe into the County-installed 18" pipe and the redirection of the historic flow of water from the Urbany parcel onto the subject property is a violation of County Code (see Attachment 10).

In consideration of the fact that the drainage entering the subject property may change as part of the discussions with Public Works, staff is proposing the addition of a condition of approval that would require the proposed drainage plan to be updated as necessary to account for any changes to the site conditions prior to construction of the residence (see Condition No. 24 of Attachment 2).

## **Appeal Issues:**

**Issue #1: Site Drainage and CEQA:** The appellants state that the construction of the new single-family dwelling should not be determined exempt from CEQA due to "unusual circumstances" related to site hydrology and drainage.

**Staff Response:** The project is exempt from CEQA pursuant to CEQA Guidelines Section 15303(a) which exempts the construction of one single-family residence in a residential zone. The appellants assert that the exception to that exemption related to "unusual circumstances" applies because the project "will increase the risk of flooding and property damage to neighboring properties". However, the appellants have not presented any evidence to support that there is a reasonable possibility that the proposed project will have a significant effect on the environment nor that the size or location distinguishes this project from others in the exempt class. The grading and drainage plan prepared by a civil engineer demonstrates that the project will not increase drainage on neighboring properties as compared to existing conditions in the area.

The project proposal includes an engineered grading and drainage plan that had been developed by Michael J. Gerenser (Civil Engineer). The drainage plan proposes to capture the water that is piped from Cheltenham Road, passing through the Urbany's property within the 12-inch pipe and rock-lined swale and then conveyed onto the subject parcel. From here, the drainage plan would channel the water to surface-flow through a new bio-swale downslope to the southeastern corner of the lot. At the southern portion of the lot, the water would be captured within a detention basin to reduce the flow rate and carrying capacity of the water before it exits the site. Additionally, the applicants presented a preliminary landscape plan that had been developed by Courtney J. Miller (Licensed Landscape Architect) that integrated the features of the engineered grading and drainage plan. As discussed in Section 5.3 of the County Planning Commission staff report, dated July 2, 2015 and the County Planning Commission staff memo dated August 25, 2015 incorporated herein by reference, a preliminary grading and drainage plan was reviewed by P&D staff, including Building & Safety (B&S), and the SBAR as part of the design review and zoning approval of the Land Use Permit. The project plans were also reviewed by the County Flood Control District and no conditions were added to the project (see Attachment I of Attachment 11 of this Board letter). Projects do not receive the subsequent review and approval of a final grading and drainage plan by the B&S Division of Planning and Development until "plan check" occurs as part of their grading / building permit review, which occurs after a project has obtained the requisite design review and zoning approvals. During the B&S review of the project, County staff with the technical expertise to critically analyze the data are able to review the proposed grading and drainage plan, calculations, and specifications for the development to ensure that site drainage is properly addressed and that new cross-lot drainage is avoided. The use of the categorical exemption §15303 is both appropriate and sufficient for the proposed construction of the Bonillo's new single-family dwelling and substantial evidence in the record supports use of the exemption.

**Issue #2: Neighborhood Compatibility.** In their appeal issues #2 , #3, and #4 the appellants allege that the proposed project does not comply with specific provisions of the County Land Use & Development Code (LUDC) and the Mission Canyon Community Plan that relate to neighborhood compatibility of the new single-family dwelling.

**Staff Response:** As discussed in the County Planning Commission staff report, dated July 2, 2015, the Planning Commission staff memorandum dated August 25, 2015, and Attachment A to said staff memorandum [Findings for Approval], the proposed new dwelling would be in compliance with all applicable Mission Canyon Residential Design Guidelines, including neighborhood context, character and compatibility, grading, and watershed management (see Sections 6.2 & 6.3 of the staff report included in Attachment 11, and Sections 2.1 & 2.2 of the Findings included in Attachment 12, respectively). By unanimous votes of 7-0 and 5-0, both the SBAR and the County Planning Commission, respectively, found that the project has been designed to reflect the overall size and character of the mix of existing one and two-story homes found throughout the surrounding neighborhood. The project is well below the allowed height limit for the zone district and meets all setback requirements. As such, the Board can find that the proposed project is in full compliance with the County LUDC and all applicable policies of the Comprehensive Plan, including the Mission Canyon Community Plan. Thus, the findings for approval can be made and are supported by substantial evidence.

**Fiscal and Facilities Impacts:**

Budgeted: Yes

The costs for processing appeals are provided through a fixed appeal fee and funds in P&D's adopted budget. Total costs for processing the appeal are approximately \$9,438.00 (50 hours). The costs are partially offset by the appeal fee of \$648.26. This work is funded in the Planning and Development Permitting Budget Program, as shown on page D-289 of the adopted 2015-2017 FY budget.

**Special Instructions:**

The Clerk of the Board shall publish a legal notice at least 10 days prior to the hearing on May 3, 2016. The notice shall appear in the Santa Barbara News-Press. The Clerk of the Board shall fulfill noticing requirements. Mailing labels for the mailed notices are attached. A minute order of the hearing and proof of publication shall be returned to Planning and Development, attention David Villalobos.

**Attachments:**

1. Findings for Approval
2. Conditions of Approval
3. Environmental Document – Notice of Exemption
4. Reduced Plan Sheets
5. Urbany/Pinkham Appeal Application
6. Public Works Violation letter, dated January 7, 2016
7. County Road Log, Mission Canyon Heights, dated July 1947
8. Public Works Agreement for Acquisition of Property, dated January 15, 1985
9. Service Request by Lara Urbany, dated January 26, 2005
10. Marc Chytilo letter, dated March 4, 2016
11. County Planning Commission Staff Report, dated July 2, 2015
12. County Planning Commission Staff Memorandum, dated August 25, 2016
13. Planning Commission Action Letter, dated September 8, 2015 (w/o Attachments)
14. Site photos with Story-poles

**Authored by:** J. Ritterbeck, Planner (805) 568-3509