

APPEAL OF FRAMPTON LLA/MAP MODIFICATION

Presented by:
Susan F. Petrovich

 Brownstein Hyatt
Farber Schreck

MAINTAIN INTEGRITY OF LOT SPLIT CONDITIONS

- Board's approach here will send a message to other applicants and the public re integrity of conditions
- Will recorded conditions imposed on the Project site be enforced or disregarded?
- If disregarded, will the same be true for the new conditions?

LOT SPLIT CONDITIONS

- #1 – All grading and other **site disturbance associated with development of the proposed lots** limited to building envelopes
- #24 – Before **using** any land or structures, **or commencing any work pertaining to any . . . improvement**, the applicant must have a Land Use and Building Permit to ensure implementation of the conditions required by the Planning Commission.

LOT SPLIT CONDITIONS

- **Development.** A change made by a person to unimproved or improved real property, including landscaping improvements.
- **Improvement.** An object affixed to **or growing in the ground** other than a structure.
- Recorded lot split conditions don't say that conditions only apply if there is a pending residential application. They require a Land Use Permit for vegetation removal.

DEVELOPERS USED A MULTI-STEP PROCESS, REMOVE OBSTACLES

- Step 1 -- Buy reduced cost lot with habitat protection – recorded lot split conditions
- Step 2 – Clear protected trees and other obstacles to allow more flexibility
- Step 3 – Grade or widen old ag roads
- Step 4 – Submit project application

CARDNO BIOLOGICAL ANALYSES – 2017 AND 2020

- Biologist's comprehensive report on native plant removal on Frampton Property – native plants mowed down, invasive species planted – 2017
- Biologist's update – natives regenerated so removal repeated in 2018. Native habitat hasn't recovered from damage and flammable invasive plants have replaced natives.
- NOT MOSAIC FUEL MANAGEMENT.



Area of tree & shrub removal and road improvements

Approximate Building & Development Envelope



Aerial photograph taken in December 2017. Planted Peruvian pepper trees, indicated by red arrows, have grown substantially and are clearly visible on the hilltop. New shrub regrowth can be seen as a peppering on the landscape.



Aerial photograph taken in April 2018. Shrub regrowth is more prominent, particularly in areas marked with light blue arrows.

APPLICANTS ATTEMPT TO CONFUSE THE ISSUE

- Removing trash – trash was dumped by entrance, not on mesa
- Euc removal was fuel management – tree removal doesn't require bull dozers
- Chaparral dead – chaparral and coastal sage scrub are drought tolerant. They weren't dead. When they regenerated during 2017-2018 winter, applicants chopped them down again.
- Fire Department isn't charged with reviewing lot split conditions; County staff incorrectly determined the work as not development.

APPLICANTS ATTEMPT TO CONFUSE THE ISSUE

- There is no justification for removing mature native vegetation on mesa
- Approved grading plan (#6 & 7 of Applicant slides) says:
 - “Erosion control permit only. Road width to remain as wide as existing footprint.”
 - Plan is entitled “Repair and Maintenance of Existing Dirt Road”
 - No gravel & no paving is included
- 5-acre limit on brush removal doesn’t override conditions
- New condition says no NEW non-natives outside BE but the damage is done and must be remediated, not left as weeds

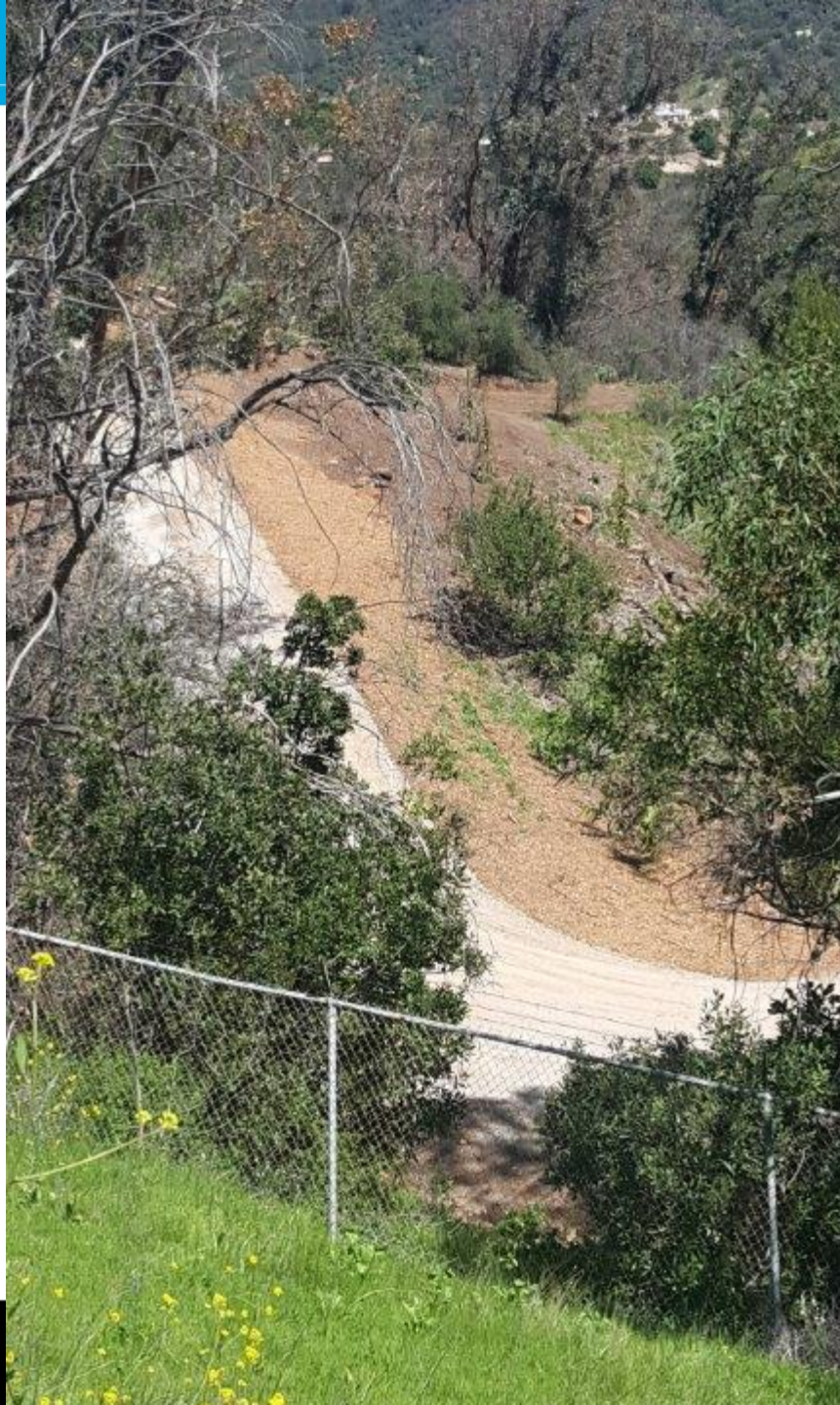
CARDNO BIOLOGICAL ANALYSES – 2017 AND 2020

- Biologist's comprehensive report—native plants mowed down, invasive species planted – 2017
- Biologist's update – natives regenerated so more whacking in 2018. Native habitat hasn't recovered from damage and invasive plants are dominating site. **NOT FIRE CONTROL.**









REQUESTED CONDITIONS

- Remove from mesa non-natives and replace healthy coastal sage scrub, chaparral, other natives
- Require County-approved biologist to monitor
- Prohibit future structures on mesa
- Prohibit widening and new paving of road; restrict use to fire access
- Require compliance with conditions immediately; no more damage
- Modify MM Bio-2b to apply to all of Property

CONCLUSION

- Glenn Alger alerted County staff repeatedly
- Staff made an error – this is development
- Project includes no conditions requiring restoration of the native vegetation
- Algers seek conditions on this project, plus staff direction to prevent recurrence

Curtail paving and limit road to fire access