



COUNTY OF SAN DIEGO

PLANNING REPORT

BOARD OF SUPERVISORS

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First District

DIANNE JACOB
Second District

PAM SLATER-PRICE
Third District

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Fifth District

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DATE: April 9, 2008

TO: Board of Supervisors

SUBJECT: LIN OPEN SPACE VACATION; VAC 02-005, SAN DIEGUITO COMMUNITY PLAN AREA (District: 5)

SUMMARY:

Overview

The proposed project is a request to vacate 1.1 acres of a dedicated open space easement on the Lin property that is located at 6672 Poco Lago near the intersection of Caminito Santo Tomas in the unincorporated San Dieguito Community Planning area of the County of San Diego (Thomas Guide Page 1188, G1). The project is subject to the General Plan Land Use Designation of (17) Estate Residential, Regional Category of 1.3, Estate Development Area and zoning of RR.5, Rural Residential Use Regulation. The area to be vacated was dedicated as biological open space with the approval of Tentative Map 4865RPL².

The open space easement to be vacated has been planted with a fruit orchard. The easement is located on two parcels that are under the same ownership. Assessor Parcel Number 303-101-10 (2.36 acres) is vacant and Assessor Parcel Number 303-101-11 (2.22 acres) is developed with a single-family residence. The open space was dedicated to mitigate for impacts to sensitive resources. Mitigation for vacating the open space will be provided by purchasing off-site habitat in an approved mitigation bank land trust. This open space easement vacation will allow for the impacted area to continue use as a fruit orchard.

Recommendations

DEPARTMENT OF PLANNING AND LAND USE

On April 9, 2008, at the close of the public hearing consider:

- a. Adopt the Resolution entitled:

Resolution Of Vacation Of Street, Highway Or Public Service Easement
(LIN; VAC 02-005)

- b. Accept the Purchase of 3.3 acres of Mitigation Credit;

(ATTACHMENTS DISTRIBUTED TO EACH BOARD MEMBER, CAO, COUNTY COUNSEL AND ON FILE IN THE OFFICE OF THE CLERK OF THE BOARD)

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- c. Accept the Dedication of the Limited Building Zone easement; and
- d. Direct the Clerk of the Board of Supervisors to record the Resolution of Vacation, which includes the findings and determinations required by law, after the applicant has proven to the satisfaction of the Director of the Department of Planning and Land Use that escrow has been closed on the purchase of the mitigation credits.

Fiscal Impact

N/A

Business Impact Statement

N/A

Advisory Board Statement

N/A

Involved Parties

Owner: **Teng-Shu Lin**

BACKGROUND:

The proposed project is a request to vacate 1.1 acres of a dedicated open space easement on the Lin property that is located at 6672 Poco Lago near the intersection of Caminito Santo Tomas in the unincorporated San Dieguito Community Planning area of the County of San Diego (Thomas Guide Page 1188, G1). The area to be vacated was dedicated as biological open space with the approval of Tentative Map 4865RPL². Tentative Map 4865RPL² approved a major subdivision of 26 lots on 63 acres.

The open space easement to be vacated has been planted with a fruit orchard. The vacation of the dedicated open space, and the associated purchase of mitigation credits, would abate violations involving unpermitted clearing activities. The 1.1 acres of dedicated open space that is to be vacated is located on two parcels that are under the same ownership. Assessor Parcel Number 303-101-10 (2.36 acres) is vacant and Assessor Parcel Number 303-101-11 (2.22 acres) is developed with a single-family residence. The open space was dedicated to mitigate for impacts to sensitive resources. Mitigation (3:1 ratio) for vacating the open space (1.1 acres) will be provided by purchasing off-site habitat (3.3 acres) in an approved mitigation bank land trust. This open space easement vacation will allow for the impacted area to continue to be used as a fruit orchard. Dedicated open space is adjacent to the project site to the west (APN 303-101-08) and natural habitat is adjacent to the project site to the north (APN 303-061-11); therefore a 100-foot limited building zone will be dedicated on-site so that future development will not impact adjacent native habitats or biological open space easements.

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The initial proposed project submittal was Administrative Permit (AD 01-053) for an open space encroachment on November 6, 2001. The submitted Administrative Permit was in response to a Code Enforcement Administrative Citation on August 6, 2001, that was issued for violation of the open space easement restrictions which forbid clearing and grading activities within the easement boundaries. The Administrative Permit process is subject to Board of Supervisor Policy I-100, which states that minor encroachments into an open space easement are to be minor in nature, involve no significant environmental impacts, and would not significantly damage the integrity of the easement. The portion of the open space easement that was cleared was not considered minor in nature, and was considered that the integrity of the open space easement would be impacted. The Administrative Permit was withdrawn on December 21, 2001 by the applicant at the direction of staff and an open space vacation was subsequently filed.

The current application for an open space vacation was filed on August 1, 2002. Since the project site is located in the Multiple Species Conservation Program (MSCP), findings were made by staff to support the vacation request. The findings contained within this document are based on County records, staff field visits and the Biological Resources Report for TM 4865RPL¹ completed in May 1991 (see Attachment D for the MSCP Findings).

According to the Biological Mitigation Ordinance, Southern Maritime Chaparral must be mitigated at a 2:1 ratio. The applicant proposes the purchase of 3.3 acres of southern maritime chaparral habitat at Deer Canyon Conservation Bank which will adequately mitigate for the 1.1 acres of impacted habitat at a higher ratio of 3:1.

The applicant is in escrow with Deer Canyon Environmental Mitigation Preserve, LLC, to purchase 3.3 acres of mitigation bank land. The impact findings remain consistent with the original draft Mitigated Negative Declaration. The proposed project will mitigate at a ratio of 3:1, which exceeds Policy I-103 request for dedication of an equal amount of land. Therefore, staff recommends that the project be found consistent with Board of Supervisor Policy I-103 because the proposed project: 1) conforms to the General Plan, 2) mitigates for the clearing impacts equivalent to, or more effective than, the existing easement, 3) is recommended for approval by the Director of the Department of Planning and Land Use, and 4) complies with the California Environmental Quality Act (CEQA) and State and County guidelines.

The vacation of an open space easement requires a two-step process. The first step is to set a date for the public hearing and direct the Clerk of the Board to provide notice and posting as required by law. The second step is to adopt a resolution to vacate portions of open space easements at the noticed public hearing.

PROJECT ISSUES:

N/A

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ENVIRONMENTAL STATUS:

A Mitigated Negative Declaration (Log No. 89-08-072B) dated January 7, 2008 was prepared and circulated for a 30-day public review period. Comments were received during the public review period and responses were provided. See Attachment D for the environmental documentation.

PREVIOUS ACTIONS:

A Mitigated Negative Declaration for the Flynn Subdivision, TM 4865RPL²/ER 89-08-072B was adopted by the San Diego County Planning and Environmental Review Board on December 19, 1991.

PUBLIC INPUT:

On December 12, 2002, the San Dieguito Community Planning Group passed a motion to disapprove the proposed open space easement vacation by a vote of 13-Yes, 0-No, 0-Absent, and 0-Abstained (see Attachment E).

DEPARTMENT REASONS FOR RECOMMENDATION:

1. The proposed project is located in the (1.3) Estate Development Area (EDA) Regional Category and (17) Estate Residential Land Use Designation of the General Plan, and is subject to the RR.5 Rural Residential Use Regulation of the Zoning Ordinance. The project is an open space easement vacation and is consistent with the Zoning Ordinance and the County General Plan.
2. Vacation of this easement will be mitigated by dedication at a ratio of 3:1 into an off-site mitigation bank land trust.
3. The Department of Planning and Land Use has determined that the proposed open space easement vacation is consistent with the Board of Supervisors Policy I-103, because:
 - a. The vacation is in conformance with the County of San Diego General Plan.
 - b. The easement is unnecessary as a present or prospective public use as a public service easement.
 - c. The project complies with CEQA and State and County Guidelines because a Mitigated Negative Declaration dated January 7, 2008 has been prepared and is on file with the Department of Planning and Land Use as Environmental Review Number 89-08-072B and the project will not have a significant effect on the environment.

In addition, the proposed mitigation is equivalent to or more effective than the existing easement because:

- d. The easement is currently compromised as a biological resource as a result of the unpermitted clearing.

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- e. The land within the easement does not meet the definition of steep slopes as defined in the Resource Protection Ordinance and the easement is not necessary for the protection of steep slopes.

Respectfully submitted,



CHANDRA L. WALLAR
Deputy Chief Administrative Officer

ATTACHMENTS:

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AGENDA ITEM INFORMATION SHEET

07/18/08 12:11

CONCURRENCE(S)

HOLYWOOD BOARD
CLERK
TUSZNA
PROB

COUNTY COUNSEL REVIEW

Written disclosure per County Charter
§1000.1 required?

Yes

Yes

N/A

GROUP/AGENCY FINANCE DIRECTOR

Yes

N/A

CHIEF FINANCIAL OFFICER

Requires Four Votes

Yes

N/A

Yes

No

GROUP/AGENCY INFORMATION
TECHNOLOGY DIRECTOR

Yes

N/A

COUNTY TECHNOLOGY OFFICE

Yes

N/A

DEPARTMENT OF HUMAN RESOURCES

Yes

N/A

Other Concurrence(s): N/A

ORIGINATING DEPARTMENT: Department of Planning and Land Use

CONTACT PERSON(S):

Glenn Russell

Name

858-694-2981

Phone

858-694-2555

Fax

MS 0650

Mail Station

glenn.russell@sdcounty.ca.gov

E-mail

Name

Phone

Fax

Mail Station

E-mail

AUTHORIZED REPRESENTATIVE:



ERIC GIBSON, INTERIM DIRECTOR

BOARD08\04-09\VAC02005-LTR;jcr

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