

Board Meeting Date: November 6, 2018
Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: Steve Monowitz, Community Development Director

Subject: EXECUTIVE SUMMARY: Consideration of 1) an Appeal of the Planning Commission's decision to deny After-the-Fact Planned Agricultural, Coastal Development, and Grading Permits, to allow for operation of a construction equipment and materials storage use, and provide after-the-fact authorization for grading performed in January 2015 to construct and improve private access roads, and 2) Non-Renewal of a Williamson Act contract, at 4448 La Honda Road in San Gregorio. The Coastal Development Permit is appealable to the California Coastal Commission if the appeal is granted and the permit is approved.

County File Number: PLN 2016-00195; PLN2016-00197 (Rogers)

RECOMMENDATION

That the Board of Supervisors:

- 1) Deny the appeal and uphold the Planning Commission's decision to deny the After-the-Fact Grading Permit (County File Number PLN 2016-00195) and Planned Agricultural Permit (PAD) and Coastal Development Permit (CDP) (County File Number PLN 2016-00197), by making the findings identified in Attachment A.
- 2) Adopt a Resolution authorizing the Planning and Building Department to file a Notice of Non-Renewal of California Land Conservation Contract pursuant to the California Land Conservation Act of 1965 (Williamson Act) for APN 082-120-050.

INTRODUCTION

This is an appeal of the Planning Commission's decision to deny after-the-fact applications for a CDP, Grading Permit, and PAD Permit. The project, which has caused and will continue to cause adverse environmental impacts to sensitive habitats, is inconsistent with the County's General Plan, Local Coastal Program, and Grading Regulations. As such, staff recommends that the Planning Commission's decision be upheld. Staff also recommends that the Board of Supervisors non-renew the Williamson Act contract due to the property owner's non-compliance with the terms of the contract.

PROPOSAL

The property is located along La Honda Road. A bridge over San Gregorio Creek on the northern border of the property connects it to La Honda Road. The property's western border runs along San Gregorio Creek, the second largest watershed in Coastal San Mateo County. San Gregorio Creek is an environmentally sensitive habitat, which supports high levels of biological diversity and species richness across several taxa, including populations of endemic, sensitive, and/or special-status species.

The applicant proposes to continue to operate an unpermitted construction equipment and materials storage use, which staff estimates was established in 2012. The proposed use involves the use and storage of equipment and materials, allegedly for agricultural use and property and road maintenance, as well as the ongoing rental of such equipment to off-site farms and maintenance crews. Inspections, observations, and aerial photography reveal, however, that most of the materials and equipment stored on the property are for construction rather than agricultural purposes. This unpermitted use is the subject of two open Code Violation cases (VIO 2015-00056 and VIO 2018-00142).

The Applicant/Appellant also seeks to legalize grading activities associated with the construction of an on-site private road, referred to as the 'horseshoe road,' which serves as the main access road to agricultural and storage areas. The road was constructed on both prime and non-prime soils, and with environmentally sensitive and geologically hazardous areas, without required permits and is the subject of violation case (VIO 2015-00056).

DISCUSSION

On July 11, 2018, based on information provided by staff and evidence presented at the hearing, the Planning Commission denied the After-the-Fact CDP, Grading Permit, and PAD Permit, based on findings that the development is inconsistent with the County's General Plan, Local Coastal Program, and Grading Regulations. These inconsistencies are due to, among other things, the location of unauthorized development and nearby sensitive habitat, the construction of the 'horseshoe road' in close proximity to San Gregorio Creek, the dumping of sediment and debris into the creek, and the manner in which the owner conducts the proposed use. These activities have and continue to result in adverse environmental impacts that will likely worsen with time, as described in the California Department of Fish and Wildlife (CDFW) Report included as Attachment L of the staff report.

The appeal form (Attachment G of the staff report) submitted by James Rogers (Appellant and Applicant) on July 25, 2018 references an "attached letter." However no such letter was or has been provided by the Appellant. In a letter to the Planning Commission dated July 11, 2018, the day of the Planning Commission's hearing on the project, Mr. Rogers requested a continuance that was not granted by the Planning Commission. In addition to requesting a continuance, the letter (included in Attachment I of the staff report) made the following assertions: (1) The work which is the subject of the violations were largely performed by the previous owner of the

property and the current owner only acquired the property 3 years ago; (2) the current owner has improved the environmental condition of the property by removing debris from the property; and (3) the current owner has improved the property's agricultural productivity since taking ownership and the property should be allowed to remain under its current Williamson Act Contract.

The detailed analysis of these claims contained in the staff report demonstrate that the violations were performed by the property owner and the provided documentation is inadequate to support approval of the requested permits. In summary, the current owner has violated numerous County policies and regulations, and there is insufficient evidence to substantiate that commercial agriculture is being conducted on-site, as required by the Williamson Act.

If the Board of Supervisor upholds the Planning Commission's denial of the requested permits, the Community Development Director will pursue a Restoration Order, per Section 9298 of the Grading Regulations, to require the restoration of the area of the 'horseshoe road' to the condition prior to the violations and the restoration of other impacted areas with documented violations, along with a bond or other equivalent security in the amount estimated for completion of the work. The County will consult with CDFW staff regarding the scope and method of the restoration work.

For non-grading related violations, the Code Compliance Section will continue enforcement of corrective measures pertaining to the removal of non-agriculturally related equipment, materials, pollutants, and unpermitted structures.

FISCAL IMPACT:

Code Compliance staff has and will continue to pursue administrative fines and other remedies to cover the costs of enforcing and abating these violations. The District Attorney is also pursuing civil penalties against Mr. Rogers for violations of the Fish and Game Code, Health and Safety Code, and Business and Professions Code.

Non-renewal of the Williamson Act Contract will gradually increase property tax revenues and remove the tax subsidy reserved for properties that meet Williamson Act requirements for agricultural production.