

Board Meeting Date: May19, 2020
Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: Steve Monowitz, Community Development Director

Subject: EXECUTIVE SUMMARY: Consideration of an Appeal of the Planning Commission's decision to deny a Planned Agricultural District Permit, Coastal Development Permit, and Use Permit to legalize unpermitted development including, but not limited to: erection of solid materials or structures (e.g., wooden ramps, maintenance shed, gate, bench, and signs), change in the intensity of use of land, and removal or harvesting of major vegetation other than for agricultural purposes; and enlargement of a non-conforming use at Historic Purissima Cemetery, 1165 Verde Road, unincorporated Half Moon Bay. 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 2019-00023 (Purissima Cemetery/Bixby)

RECOMMENDATION

That the Board of Supervisors:

Deny the appeal and uphold the Planning Commission's decision to deny the requested Planned Agricultural District (PAD) Permit, Coastal Development Permit (CDP), and Use Permit to legalize unpermitted development, by making the findings identified in Attachment A.

INTRODUCTION

This is an appeal of the Planning Commission's decision to deny a PAD Permit, CDP, and Use Permit to legalize unpermitted development (see Attachment C) at the Historic Purissima Cemetery. Staff recommends that the Board of Supervisors uphold the Planning Commission's decision (see Attachment E) to deny the requested permits based upon the incompleteness of the application. Additionally, the unpermitted burials, construction, and use of the property have and will continue to cause adverse environmental impacts to sensitive habitats and agricultural resources, and is therefore inconsistent with the County's General Plan, Local Coastal Program, and grading requirements.

PROPOSAL

Edward Bixby, the "Appellant/Applicant," proposes to re-establish the operation of the historic cemetery and legalize the unpermitted development that has occurred without the required permits. The unpermitted development is the subject of an open County Code Violation case (VIO 2017-00320).

DISCUSSION

The County issued a Notice of Violation in March 2018 for development conducted on the parcel without the necessary permits. The Zoning Hearing Officer (ZHO) issued an Administrative Order in a Letter of Decision upholding the County's Administrative Citations (Nos. VIO 2017-00320-001 and VIO 2017-000320-002) issued in May 2018 and September 2018. The Order requires the applicant to: (1) immediately cease the unpermitted use, including, but not limited to conducting burials, land clearing, construction and posting signs; and (2) apply for the required Coastal Development Permit (CDP) and Use Permit within 60 days of the Administrative Hearing.

The Appellant/Applicant failed to meet the 60-day application deadline, and the applications that were subsequently submitted were deemed incomplete due to the lack of required information. The applications were scheduled for hearing before the Planning Commission in November 2019, despite their incomplete status. Staff recommended that the Planning Commission deny the Appellant's/Applicant's permit request due to the incompleteness of the applications, and because the request to legalize unpermitted development and continue the unpermitted use: (1) does not conform to specific findings required by Local Coastal Program (LCP) policies; (2) does not comply with General Plan policies; (3) does not meet the requirements for issuance of a Use Permit; and (4) does not meet the requirements for a PAD permit. The Planning Commission denied the requested permits per staff's recommendation.

On November 26, 2019, the Appellant/Applicant submitted an Application for Appeal to the Board of Supervisors (Attachment E to the staff report). The Appellant/Applicant, in summary contends that: (1) he *"would like further clarification as to what exactly is needed to put improvements application forth once more"*, (2) the *"Board County has requested information from Applicant that may not be required for Improvement Review"*, (3) he is *"... not unwilling to proceed forward with further requirements"* and *"... does not want to proceed with any further costly reviews if they are not required"*, and (4) the *"use of property as a cemetery is not in question"* and asks for advice on *"how we might be able to proceed further to an amicable solution and resolution."* As detailed by the staff report, staff is recommending that the appeal be denied because the Appellant/Applicant has not made a good faith effort to address the regulatory requirements and associated information needs that have been clearly communicated by staff; has not submitted the application materials required to support the findings that must be made in order to approve the requested permits; and has continued to ignore and violate County requirements despite multiple warnings and the issuance of an Order.

If the Board of Supervisor upholds the Planning Commission's denial of the requested permits, the Code Compliance Section will continue to take the enforcement actions required to remove unpermitted development, remediate the site, and ensure no additional unpermitted development takes place. The Planning and Building Department will also continue to coordinate with the Office of County Counsel to escalate the enforcement actions as necessary to obtain compliance.