



Contra  
Costa  
County

To: Board of Supervisors  
From: Julia R. Bueren, Public Works Director/Chief Engineer  
Date: July 21, 2015

Subject: HEARING to consider reversion to acreage of subdivision SD03-08811 & finding of exemption under the California Environmental Quality Act, El Sobrante

### **RECOMMENDATION(S):**

1. OPEN a public hearing on the Board-initiated reversion to acreage of subdivision (SD) 03-08811, RECEIVE and consider all public testimony, and CLOSE the public hearing.
2. ADOPT reversion to acreage findings as set forth in Government Code section 66499.16, subdivisions (a) and (b)(2), as to SD03-08811.
3. ADOPT conditions for reversion to acreage as set forth in Government Code section 66499.17, subdivisions (b)-(c).
4. ADOPT Resolution 2015/251 approving the final map of the reversion entitled "Map Reverting to Acreage Lots 1 thru 5 Inclusive, Lee Drive and Tran Lane Subdivision 8811."
5. FIND that the reversion to acreage of SD03-08811 is exempt from review under the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines section 15061, subdivision (b)(3), in that it can be seen with certainty that there is no possibility that the reversion will have a significant effect on the environment.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **07/21/2015** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

#### **VOTE OF SUPERVISORS**

AYE: John Gioia, District I  
Supervisor  
Candace Andersen, District II  
Supervisor  
Mary N. Piepho, District III  
Supervisor  
Karen Mitchoff, District IV  
Supervisor

ABSENT: Federal D. Glover, District V  
Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: July 21, 2015

David Twa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: W.Lai, Eng. Svcs.  
925-313-2180

cc:

6. DIRECT the Conservation and Development Director, or designee, to file a Notice of Exemption with the County Clerk, and DIRECT the Public Works Director, or designee, to arrange for payment of the \$50 filing fee to the County Clerk.

7. DIRECT the Clerk of the Board to execute a Notice of Reversion to Acreage substantially in

### RECOMMENDATION(S): (CONT'D)

the form attached, pursuant to County Ordinance Code section 924-2.010, subdivision (c), and DIRECT the Public Works Director, or designee, to arrange for its recording concurrently with the final map.

### FISCAL IMPACT:

Staff costs associated with the reversion will be funded by available revenues from a cash security deposit and fees paid by the subdivider and funds obtained in a settlement of associated litigation.

### BACKGROUND:

SD03-08811 is a 5-lot subdivision located on Kelvin Road in the El Sobrante area. On December 4, 2007, the Board adopted Resolution 2007/697, approving the recordation of a final map, execution of a Subdivision Agreement and an associated subdivision improvement surety bond for this subdivision. The subdivider is Christine Lee and the surety is SureTec Insurance Company (SureTec). The current owner of the subdivision property is Myint Han. Per the Subdivision Agreement, the subdivider was required to complete the subdivision improvements within two years of execution (i.e., by December 4, 2009). However, the subdivider failed to install any of the required road and drainage improvements or renew the Subdivision Agreement.

Public Works staff notified the subdivider of its obligation to complete the improvements and keep the Subdivision Agreement current. Public Works staff also notified SureTec of the subdivider's breach of the Subdivision Agreement and requested that the surety company honor its obligation to complete the required improvements. After it became clear that these informal attempts to resolve the matter would not succeed, the County filed an action against Christine Lee and SureTec on November 22, 2013. The litigation culminated in a Settlement Agreement with SureTec, which took effect on February 10, 2015. The Settlement Agreement required the Public Works Department to make a presentation to the Board for a reversion to acreage of this subdivision, and required SureTec to pay the County \$15,000 to cover costs associated with the reversion. On March 10, 2015, the Board adopted Resolution No. 2015/71, initiating proceedings for a reversion to acreage.

A final map of the reversion has been prepared. A draft of the map, entitled "Map Reverting to Acreage Lots 1 thru 5 Inclusive, Lee Drive and Tran Lane Subdivision 8811," is attached.

The Board is now requested to conduct a noticed public hearing on the proposed reversion to acreage, as required by Government Code section 66499.15, and thereafter adopt the required findings and conditions for reversion under Government Code sections 66499.16 and 66499.17 and a resolution to approve the reversion map, in accordance with Chapter 924-2 of the County Ordinance Code.

## FINDINGS:

Government Code section 66499.16 provides that subdivided real property may be reverted to acreage only if the Board of Supervisors finds that:

(a) Dedications or offers of dedication to be vacated or abandoned by the reversion to acreage are unnecessary for present or prospective public purposes; and

(b) Either:

(1) All owners of an interest in the real property within the subdivision have consented to reversion; or

(2) None of the improvements required to be made have been made within two years from the date the final or parcel map was filed for record, or within the time allowed by agreement for completion of the improvements; whichever is later; or

(3) No lots shown on the final map or parcel map have been sold within five years from the date such map was filed for record.

As set forth below, the facts in this case support findings (a) and (b)(2). The findings in (b)(1) and (b)(3) do not apply.

Facts Supporting Finding (a): The recorded final map of SD03-08811 (505M31) shows dedications of a public utilities easement and private access easement, both of which were required to serve the subdivision and, following the reversion, will be unnecessary for present or prospective public purposes. These easements are not shown on the reversion map and will be terminated upon its recording.

Facts Supporting Finding (b)(2): The subdivider has not installed any of the improvements as required in the Subdivision Agreement, the improvement plans for the subdivision or the conditions of approval.

## CONDITIONS OF REVERSION:

Section 66499.17 of the Government Code provides that as conditions of reversion the Board of Supervisors shall require the following:

(a) Dedications or offers of dedication necessary for the purposes specified by local ordinance following reversion.

(b) Retention of all previously paid fees if necessary to accomplish the purposes of this division or local ordinance adopted pursuant thereto.

(c) Retention of any portion of required security or deposits if necessary to accomplish the purposes of this division of (sic) local ordinance adopted pursuant thereto.

No dedications or offers of dedication are necessary for the purposes specified by local ordinance following reversion of this subdivision. However, fees paid by the subdivider

and a cash deposit to secure the construction of the subdivision improvements are necessary to accomplish the purposes of the Subdivision Map Act and Title 9 of the County Ordinance Code, in that the funds are needed to pay for costs associated with this reversion. By approving Recommendation #3 above, the Board requires retention of these funds as conditions of this revision, and approves these conditions.

#### **CEQA EXEMPTION:**

The general rule is that an activity is exempt from review under the California Environmental Quality Act (CEQA) if it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment. (Cal. Code Regs., tit. 14, § 15061, subd. (b)(3)). It can be seen with certainty that there is no possibility that this reversion may have a significant effect on the environment because there will be no physical changes to the property as a result of the reversion. The reversion rescinds the original development rights by replacing a 5-lot map with a new one-lot map.

#### **CONSEQUENCE OF NEGATIVE ACTION:**

The reversion map will not be recorded, and the five parcels created with the recordation of the final map in 2007 would remain in existence, without the required subdivision improvements being installed. The settlement agreement between the County and SureTec would be of no further effect and the litigation would continue.

#### **CLERK'S ADDENDUM**

***CLOSED the public hearing; ADOPTED reversion to acreage findings; ADOPTED conditions for reversion to acreage; ADOPTED Resolution 2015/251 approving the final map of the reversion entitled "Map Reverting to Acreage Lots 1 thru 5 Inclusive, Lee Drive and Tran Lane Subdivision 8811."; FOUND that the reversion to acreage of SD03-08811 is exempt from review under the California Environmental Quality Act (CEQA); DIRECTED the Conservation and Development Director, or designee, to file a Notice of Exemption with the County Clerk, and DIRECTED the Public Works Director, or designee, to arrange for payment of the \$50 filing fee to the County Clerk; DIRECTED the Clerk of the Board to execute a Notice of Reversion to Acreage substantially in the form attached, pursuant to County Ordinance Code section 924-2.010, subdivision (c), and DIRECTED the Public Works Director, or designee, to arrange for its recording concurrently with the final map.***

#### **ATTACHMENTS**

Resolution No. 2015/251

Reversion to acreage map

Notice of Reversion to Acreage