



**Contra
Costa
County**

To: Board of Supervisors
From: Julia R. Bueren, Public Works Director/Chief Engineer
Date: August 18, 2015

Subject: HEARING to consider reversion to acreage of Subdivision SD04-08920 & 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 SD04-08920, 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 SD04-08920.
3. ADOPT conditions for reversion to acreage as set forth in Government Code section 66499.17, subdivisions (b)-(c).
4. ADOPT Resolution No. 2015/252 approving the final map of the reversion, entitled "Map Reverting to Acreage Lots 1 thru 25 Inclusive, Balmore Court and Cecile Circle Subdivision 8920."
5. FIND that the reversion to acreage of SD04-08929 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: **08/18/2015** ☒ 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: August 18, 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

RECOMMENDATION(S): (CONT'D)

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 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:

SD04-08920 is a 25-lot subdivision located at the terminus of Baltimore Court in the El Sobrante Area. On October 2, 2007, the Board adopted Resolution No. 2007/546, 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 KPR Baltimore Manor, LLC, and the surety is Insurance Company of the West. The current owner of the subdivision property is 1486 Investors, LLC. Per the Subdivision Agreement, the subdivider was required to complete the subdivision improvements within two years of execution (i.e., by October 2, 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 Insurance Company of the West of the subdivider's breach of the Subdivision Agreement and requested that the surety company honor its obligation to complete the required improvements. Staff also attempted to reach a resolution with the current owners of the subdivision property. After it became clear that these informal attempts to resolve the matter would not succeed, the County filed an action against KPR Baltimore Manor, LLC, and Insurance Company of the West on September 27, 2013. The litigation culminated in a Settlement Agreement with Insurance Company of the West, which took effect March 9, 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 Insurance Company of the West to pay the County \$10,000 to cover costs associated with the reversion. On March 10, 2015, the Board adopted Resolution 2015/72, initiating proceedings for a reversion to acreage. The Settlement Agreement requires the reversion to be complete on or before August 31, 2015.

A final map of the reversion has been prepared. A draft of the map, entitled "Map Reverting to Acreage Lots 1 thru 25 Inclusive, Baltimore Court and Cecile Circle Subdivision 8920," 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 SD04-08920 (505M47) shows an offer of dedication of a sanitary sewer easement and dedications of Balmore Court, a public utilities easement, a sanitary sewer easement and an area designated as a “private access easement and/or Cecile Circle,” all 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 25-lot map with a new one-lot map.

CONSEQUENCE OF NEGATIVE ACTION:

The reversion map will not be recorded, and the 25 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 Insurance Company of the West would be of no further effect and the litigation would continue.

CLERK'S ADDENDUM

Speakers: Dan Shaw, 1486 Investors, Inc. thanked the Board for the additional time and staff for exemplary assistance. Mr. Shaw hopes to return with a new project soon. CLOSED the public hearing. ADOPTED conditions for reversion to acreage as set forth in Government Code section 66499.17, subdivisions (b)-(c). ADOPTED Resolution No. 2015/292 approving the final map of the reversion; FOUND that the reversion to acreage of SD04-08929 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; and DIRECTED the Public Works Director, or designee, to arrange for its recording concurrently with the final map; ADOPTED reversion to acreage findings as set forth in Government Code section 66499.16, subdivisions (a)

and (b)(2), as to SD04-08920.

ATTACHMENTS

Resolution No. 2015/252

Reversion to acreage map

Notice of Reversion to Acreage