



Contra
Costa
County

To: Board of Supervisors
From: Brian M. Balbas, Public Works Director/Chief Engineer
Date: July 10, 2018

Subject: HEARING to consider reversion to acreage of real property within Subdivision 08-09215, San Ramon area

RECOMMENDATION(S):

1. OPEN a public hearing on the Board-initiated reversion to acreage of real property within subdivision SD08-09215, RECEIVE and consider all public testimony, and CLOSE the public hearing.
2. DETERMINE that the reversion to acreage of real property within subdivision SD 08-09215 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.
3. ADOPT reversion to acreage findings required by Government Code section 66499.16, subdivisions (a), (b)(2), and (b)(3), as set forth in this Board order.
4. ADOPT conditions for reversion to acreage required by Government Code section 66499.17, subdivisions (b) and (c), as set forth in this Board order.
5. ADOPT Resolution 2018/244, approving the final map of the reversion, entitled

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **07/10/2018** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, District III Supervisor
Karen Mitchoff, District IV Supervisor
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 10, 2018

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

Contact: Jocelyn LaRocque (925)
313-2315

By: June McHuen, Deputy

“Reversion to Acreage Subdivision 9215.”

6. DIRECT the Clerk of the Board to execute a Notice of Reversion to Acreage substantially in the form attached, pursuant to County

RECOMMENDATION(S): (CONT'D)

Ordinance Code section 924-2.010, subdivision (c), and DIRECT the Public Works Director to arrange for its recording concurrently with the final reversion map.

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

FISCAL IMPACT:

Staff costs associated with the reversion will be funded by available revenues from a cash security deposit and fees paid by the owners.

BACKGROUND:

On January 12, 2010, the Board adopted Resolution No. 2010/37, approving the final map and Subdivision Agreement for subdivision SD08-09215, a 3-lot subdivision located south of Ashbourne Drive in an unincorporated area near San Ramon, approximately one-third of a mile southeast of the intersection of Ashbourne Drive and Norris Canyon Road. The street address of the subdivision property is 2301 Norris Canyon Road. The subdividers and fee title owners of the subdivision property are Randolph D. Lindsay and Roxanne W. Lindsay, Trustees of the 1996 Lindsay Living Trust under Declaration of Trust dated February 7, 1996 ("Owners"). The owners of other interests in the subdivision property are referenced in the Notice to Reversion to Acreage attached hereto.

The Subdivision Agreement required the installation of road, drainage and other subdivision improvements within two years (i.e., by January 12, 2012). That deadline was extended four times, ultimately to January 12, 2016. In a June 9, 2017, letter to the Public Works Director, a copy of which is attached, the Owners advised that they were unable to complete the improvements because of their cost, and that they consented to the reversion to acreage of the subdivision property. While the County has other options when subdividers fail to satisfy obligations under a subdivision agreement, staff determined that reversion to acreage was appropriate here because the improvements required for this subdivision would have been privately owned and maintained and are not considered to be necessary backbone infrastructure for the County's road and drainage system. Initially, the Owners submitted an application to revert the property to acreage and paid the associated fee. Due to complexities in the reversion process arising from a large number of interests in the property held by multiple owners, identified in Exhibit C to the Notice of Reversion to Acreage, which is attached hereto and incorporated herein, staff determined that it would be in the best interest of the County and the Owners to convert the process to a Board-initiated reversion.

On June 5, 2018, the Board adopted Resolution No. 2018/184, initiating proceedings for a reversion to acreage, and authorized the Public Works Director or his designee to take

all actions necessary to complete the reversion. In accordance with County Ordinance Code section 924-2.006, staff prepared a final reversion map, entitled “Reversion to Acreage Subdivision 08-9215,” a copy of which is attached, and this report, and now submits both for Board consideration.

Under Government Code section 66499.15 and County Ordinance Code section 924-2.008, subdivision (a), the Board must conduct a noticed public hearing on a proposed reversion to acreage. The Board may approve a reversion if it makes the findings specified in Government Code section 66499.16 and includes, as conditions of reversion, the conditions specified in Government Code section 66499.17. Approval of a reversion map is also required.

FINDINGS

Government Code section 66499.16 provides that the subdivision may be reverted to acreage only if the Board 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 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), (b)(2) and (b)(3).

Facts Supporting Finding (a): The recorded final map of SD08-09215 shows an offer of dedication of an emergency vehicle access easement for public use. This offer of dedication was required as a condition of SD08-09215, but after reversion will not be necessary, as emergency vehicles currently have access to the subdivision property. It does not appear on the reversion map and would be terminated upon its recording in accordance with Government Code section 66477.2, subdivision (e). The reversion map also does not show a restricted development area near an unimproved creek on the subdivision property— a form of negative easement – the development rights to which are currently held by the County. The development rights were conveyed to the County as a condition of SD08-09215, in conformance with a county ordinance that requires the dedication of development rights within specified creek structure setback areas. There is

no need for the County to hold these development rights following reversion, as other legal requirements would restrict construction near creek banks. Upon the recording of the map, these development rights would be abandoned in accordance with Government Code section 66434, subdivision (g).

Facts Supporting Finding (b)(2): In their June 9, 2017, letter to the Public Works Director, the Owners acknowledge their failure to install any of the improvements required by the Subdivision Agreement.

Facts Supporting Finding (b)(3): County records do not show any sales of any of the lots shown on the recorded final map of subdivision SD08-09215. Additionally, in their June 9, 2017, letter to the Public Works Director, the Owners state that they have not sold any of these lots.

CONDITIONS OF REVERSION

Section 66499.17 of the Government Code provides that as conditions of reversion the Board 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 improvement security or deposits if necessary to accomplish the purposes of this division of local ordinance adopted pursuant thereto.

All dedications that existed prior to subdivision SD08-09215 are considered to be necessary to serve the property after the reversion to acreage, and are shown on the reversion map. As this map has been prepared by the County in a reversion initiated by the Board, the preservation of these preexisting dedications is considered a condition of this reversion. No new dedications or offers of dedication are necessary for the purposes specified by local ordinance following reversion of this subdivided property.

However, a reversion application fee paid by the Owners, 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 preservation of the preexisting dedications, and retention of the above-described funds, as conditions of this reversion.

CEQA EXEMPTION

An activity is exempt from review under 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 it will not cause any physical changes to the property.

CONSEQUENCE OF NEGATIVE ACTION:

The final map would not be recorded, and the three parcels created with the recordation of the SD08-09215 final map would remain in existence. Staff would evaluate other measures to address the Owners' default under the Subdivision Agreement.

CLERK'S ADDENDUM

DETERMINED that the reversion to acreage of real property within subdivision SD 08-09215 is exempt from review under the California Environmental Quality Act (CEQA); ADOPTED reversion to acreage findings; ADOPTED conditions for reversion to acreage required by Government Code section 66499.17, subdivisions (b) and (c), as set forth in this Board order; ADOPTED Resolution 2018/244, approving the final map of the reversion, entitled "Reversion to Acreage Subdivision 9215." ; DIRECTED the Clerk of the Board to execute a Notice of Reversion to Acreage , and DIRECTED the Public Works Director to arrange for its recording concurrently with the final reversion map; DIRECTED the Conservation and Development Director to file a Notice of Exemption with the County Clerk; and DIRECTED the Public Works Director to arrange for payment of the \$50 filing fee to the County Clerk.

ATTACHMENTS

Resolution No. 2018/244

Map- Reversion to Acreage Subdivision 9215

Notice of Reversion to Acreage

Letter from Randy & Roxanne Lindsay