



**Contra
Costa
County**

To: Board of Supervisors
From: Brian M. Balbas, Public Works Director/Chief Engineer
Date: November 5, 2019

Subject: HEARING to consider reversion to acreage of real property within subdivision SD04-08820, El Sobrante area.

RECOMMENDATION(S):

1. OPEN a public hearing on an owner-initiated reversion to acreage of the real property within subdivision SD04-08820, RECEIVE and consider all public testimony, and CLOSE the public hearing.
2. DETERMINE that the reversion to acreage of the real property within subdivision SD04-08820 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, subdivision (a), (b)(2), and (b)(3), as set forth in this Board order.
4. ADOPT conditions for reversion to acreage as set forth in Government Code section 66499.17, subdivisions (a)-(c), as set forth in this Board order.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY

☐ RECOMMENDATION OF BOARD

ADMINISTRATOR

COMMITTEE

Action of Board On: **11/05/2019** ☒ 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: November 5, 2019

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

Contact: Randolph Sanders
(925)313-2111

By: June McHuen, Deputy

RECOMMENDATION(S): (CONT'D)

5. ADOPT Resolution No. 2019/596, approving the final map of the reversion of the subdivided real property.

6. AUTHORIZE the Chair, Board of Supervisors, to execute the Separate Statement of Consent to Preparation and Recording of Reversion Map ("Separate Statement"), attached hereto.

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

8. DIRECT the Public Works Director, or designee, to arrange for the Separate Statement to be recorded concurrently with the final reversion map, pursuant to County Ordinance Code section 924-2.010, subdivision (b).

FISCAL IMPACT:

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

BACKGROUND:

On December 18, 2007, the Board adopted Resolution No. 2007/737, approving a final map and subdivision agreement for subdivision SD04-08820, a 5-lot subdivision located on Luise Lane at Hilltop Drive in the unincorporated El Sobrante area. The subdivider and owner of the subdivision property is Geoghegan Homes, Incorporated. The Subdivision Agreement required the installation of road, drainage and other subdivision improvements within two years (i.e., by December 4, 2009). That deadline was extended five times, ultimately to April 20, 2019. None of the subdivision improvements were installed.

The owner of the subdivision property has petitioned to revert the real property within the subdivision to acreage rather than renew the Subdivision Agreement again, and submitted a final reversion map, entitled "Reversion to Acreage Lots 1 to 5 Inclusive of Subdivision 8820." Staff has reviewed the map and found it to conform to the applicable legal requirements.

Under Section 924-2.008 of the County Ordinance Code, the Board must conduct a noticed public hearing on a proposed reversion to acreage and may approve a reversion if it makes certain findings specified in Government Code section 66499.16 and includes, as conditions of reversion, the conditions specified in Government Code section 66499.17. If the Board approves a reversion map, the map must be recorded along with a statement signed by owners of record title interests in the subdivision property that they consented to the preparation and recording of the map. As the owner of record title interests in the

subdivision property, the County is among the required signatories.

FINDINGS

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

- a. Dedications of 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), (b)(2), and (b)(3).

Facts Supporting Finding (a): The recorded final map of subdivision SD04-08820 shows an area dedicated to the County for roadway purposes and the dedication of an area to the East Bay Municipal Utility District for the purpose of constructing, replacing, maintaining, operating and using a water line. The map also shows offers of dedication of areas designated as a public utility easement, sanitary sewer easement and sight distance easement, and a “restricted development area” – a structure setback area adjacent to a creek on the subdivision property, the development rights to which were conveyed by grant deed to the County as a condition of approval of the subdivision. All of the above areas were required to serve the subdivision, but following reversion, will not be necessary for present or prospective public purposes. For this reason, they are not shown on the reversion map. As noted on the map, these offers of dedication will be terminated and the restricted development area abandoned upon the filing of the map.

Facts Supporting Finding (b)(2): None of the improvements required by the Subdivision Agreement for subdivision SD04-08820 have been installed.

Facts Supporting Finding (b)(3): No lots shown on the final map for subdivision SD04-08820 have been sold within five years from the date the final map was filed for record.

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 or local ordinance adopted pursuant thereto.

The County obtained a drainage easement on the subdivision property in 2001, prior to subdivision SD04-08820. This easement is necessary to serve the property after the reversion to acreage, and is shown on the reversion map. The preservation of this preexisting easement 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, all previously paid fees, including a reversion application fee paid by the owner, and a cash deposit to secure 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 #4 above, the Board requires preservation of the preexisting easement, and retention of the above-described funds, as conditions of this reversion.

SEPARATE STATEMENT

When a reversion is initiated by petition, Ordinance Code section 924-2.010, subdivision (b), requires the reversion map to be recorded concurrently with a separate statement that all owners of record title interests consented to the preparation and recording of the map. As the owner of development rights and a drainage easement on the subdivision property, the County is among the owners who will need to sign the separate statement before the map can be recorded. A copy of the separate statement is attached. The recommended actions include the execution of this separate statement by the Board Chair on behalf of the County.

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 replaces a five-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 recording of the final map in 2007 would remain in existence. The subdivider would remain obligated under the Subdivision Agreement to install the required road and drainage improvements.

ATTACHMENTS

Resolution No. 2019/596

Map- Reversion to Acreage Subdivision 8820

Separate Statement of Consent to Preparation and Recording of Reversion Map