

FROM THE PLANNING COMMISSION MINUTES OF APRIL 8, 2010

8. CERTIFICATE OF COMPLIANCE

COC09-0022 submitted by MICHAEL KUHL, PENNY HOCKING, PAULA HUSTEAD, GARY WILLIAMS, TONY ANGULO, SAM ANGULO, and FRED ANGULO for Conditional Certificate of Compliance for Assessor's Parcel Numbers 011-030-45 and 011-030-46 which were subdivided into three parcels by a court order in 1994 and transferred by Grant Deeds in 1994. The property, identified by Assessor's Parcel Numbers 011-030-45 and 011-030-46, consisting of 214.17 acres, is located on the north side of Union Valley Reservoir, approximately two miles west of the intersection of NF-12N52 and NF-12N78 Roads, in the Ice House area, Supervisorial District IV. [*Project Planner: Tom Dougherty*] (Statutory Exemption pursuant to Section 15061.b.3 of the CEQA Guidelines)** [*continued from 2/25/10 meeting*]

Tom Dougherty presented the item to the Commission with a recommendation of approval to the Board of Supervisors. He notified the Commission that the Staff Memo dated April 7, 2010 superseded the Staff Memo dated March 15, 2010. The new Staff Memo recommended amendments to Conditions #7 and #8.

Commissioner Heflin requested clarification on the TPZ setbacks as identified on page 5 of the Staff Report.

In response to Commissioner Mathews' inquiry on the requested modifications to Conditions #7 and #8, Claudia Wade/DOT stated that this was to ensure that no land-locking occurred. Pierre Rivas also responded that the County's primary concern is to ensure that all of the parcels have legal access.

Mike Kuhl/applicant voiced concern that the County was requiring an easement on private lots. He felt that it was "overkill" since this was already addressed in the deeds and was uneasy that staff was not consistent in their responses as to what exactly was required. Mr. Kuhl stated that staff is now stating he has to do a Metes and Bounds. He is requesting that Condition #8 be removed.

Mr. Rivas informed the Commission that these are standard conditions that would have been imposed if this had followed the normal process, but is now being done "after the fact" due to the Court Order.

Significant discussion ensued between Commissioner Pratt and Mr. Kuhl on defining the easement vs. road. Commissioner Pratt wanted to ensure consistency between the deed and the easement. He suggested that perhaps the easement could be made wider so if the road moved due to a washout, it would still be within the easement. Mr. Rivas requested a 10-minute break to confer with the Surveyor's Office to ensure that the proposed flexibility on increasing the easement would be allowed. The Commission approved the break.

Ms. Wade stated she spoke with the Surveyor's Office and there were two options available: (1) Metes and Bounds would tie down the roads and provide an actual description; or (2) 50-foot wide easement where road currently stands. The latter option would possibly cause disputes with future owners of the properties as it runs the risk of the road eventually not running through the easement.

Commissioner Mathews commented that the location of the property needs to be considered.

Rich Briner/Surveyor's Office stated that the problem with not locating the easement and the width of it would be in the future when the property is sold and the definition of the easement is lost and then the existing road at that time would be used, thereby causing a dispute among the property owners. In response to Commissioner Pratt's suggestion to widen the easement to allow the road the ability to move within it due to washouts, Mr. Briner reiterated that the width and location are needed in order to avoid future disputes.

Discussion ensued between the Commission and staff on defining the easement, which is typically done through Metes and Bounds, but without incurring the significant costs.

Commissioner Tolhurst disagreed with the need to incur the significant costs of on-site review, particularly if a 100-foot easement was used. He felt that an engineering firm would be able to define the easement location on paper and it could be done solely in the office, thereby reducing the costs.

Commissioner Mathews was concerned that a 100-foot easement would cause potential future problems. Staff agreed with his comment and recommended using the 50-foot easement. Commissioner Mathews stated that significant discussion has taken place solely on the Commission's preference to eliminate the added cost of Metes and Bounds on the applicant. He stated for the record that the goal is to define the easement without requiring very specific targeting of the existing road.

No further discussion was presented.

Motion: Commissioner Mathews moved, seconded by Commissioner Pratt, and carried (5-0), to recommend the Board of Supervisors take the following actions: 1. Certify that the project is exempt from CEQA pursuant to Section 15061.b.3 of the CEQA Guidelines; and 2. Approve Certificate of Compliance COC09-0022, based on the Findings and subject to the Conditions of Approval as modified: (a) Include amendments identified in Staff Memo dated April 7, 2010.

Commissioner Mathews clarified, with Mr. Rivas providing acknowledgment, that the Commission was adding additional language outside of the motion directing staff that there be no requirement of a survey of the road.

AYES: Heflin, Tolhurst, Pratt, Mathews, Rain
NOES: None