



June 13, 2021

To: Lisa Grote, Zoning Hearing Officer
From: Lennie Roberts, Green Foothills

Re: June 17, 2021 Zoning Hearing Officer Agenda, Item #2: PLN2020-00448 Coastal Development Permit and Certificate of Compliance (Type B) to legalize a 7,070 sq. ft. parcel at 779 San Carlos Avenue, El Granada; Owner/Applicant: Rodrigo Lacasia Barrios

On behalf of Green Foothills, I write to request that the Staff Report and Conditions of Approval for the above-referenced project be revised in order to fully comply with LCP requirements, as set forth below.

Parcel Legality determination needs additional info as to ownership of adjacent parcels at the time of conveyance of the subject parcel.

The proposed project would legalize a parcel that was created without benefit of County review and approval; staff has determined that a Conditional Certificate of Compliance (COC-B) is required. A key unanswered question is whether any of the adjacent parcels were conveyed to the same new owner at the same time as the subject parcel. If any adjacent parcels were indeed conveyed at the same time, the provisions of the “Witt and Abernathy” court decisions would apply. Staff has advised in response to my query regarding this question: “The chain of title received for the proposed project was sufficient to determine the parcel’s conveyance as a separate standalone parcel from any adjacent land via deed on May 5, 1960.” Without documentation confirming that adjacent parcel or parcels were not conveyed to the same new owner together with the subject parcel on that date, the question as to whether this is indeed a separate standalone parcel remains. Please provide information re: owners of the four adjacent parcels on May 5, 1960.

Coastal Development Permit/Conditional Certificate of Compliance requirements have not been met.

As stated in the Staff Report, LCP Policy 1.30.d requires (in relevant part): “...a Coastal Development Permit shall be issued to legalize the parcel if the parcel configuration will not have any substantial adverse impacts on coastal resources.” Also: “Permits to legalize this type of parcel shall be conditioned to maximize consistency with Local Coastal Program resource protection policies. A separate Coastal Development Permit, subject to all applicable Local Coastal Program requirements shall be required for any development of the parcel.” (emphasis added)

Please note that Policy 1.30.d is one of the key LCP policies that were enacted by the voters in 1986 per Measure A, the Coastal Protection Initiative. Measure A’s voter enacted policies may not be amended or repealed without approval by a majority of voters in the County. Additionally, Measure A (in Section 9) specifically requires: “The Board of Supervisors and other officials and employees of the County Government are mandated by the citizens of the County to apply and enforce the provisions of this

ordinance and the Local Coastal Program generally...” As one of the primary authors of Measure A, I have a particularly keen interest in being sure that its provisions are fully complied with.

Proposed Condition #4, as drafted, is inadequate.

Condition of Approval #4 does not fully comply with LCP Policy 1.30.d. Green Foothills requests that this Condition be reworded to state: “Any future development on this parcel shall maximize consistency with the resource protection policies of the Local Coastal Program; including but not limited to, Sensitive Habitat policies regarding riparian corridors and wetlands, buffer zones, and allowable uses.” Please note that in the case of Dispute Resolution 2-19-1994-EDD (Ralston, single family residence on a 20,000 sq. ft. parcel at the end of Hermosa Avenue, Miramar) the California Coastal Commission, at its November 13, 2019 meeting, found (in relevant part) that “Arroyo willow is designated as a facultative wetland indicator species by the Army Corps of Engineers. Given the presence and coverage of this indicator species on most of the site, it appears to be a “dominant” species, which means that the area is likely to delineate as a wetland based on the presence of this hydrophytic vegetation alone.”

The subject parcel at 779 San Carlos supports a dense Arroyo willow riparian woodland that covers approximately 25-30% of the property, as depicted on the 11/17/2020 Boundary and Topographic Map, by Turnrose Land Surveying. The Arroyo willow riparian woodland is described by Tom Mahoney of Albion Environmental in his October 15, 2004 Report on the subject parcel as: “Riparian woodland, composed of the Arroyo Willow series (Sawyer and Keeler-Wolf 1995), occurs along the western half of the Project Area. The riparian area is structurally mature, and forms an intact canopy extending from the Project Area down to the unnamed drainage channel to the west. Arroyo willow (*Salix lasiolepis*) is the dominant canopy species, with occasional Monterey pine (*Pinus radiata*).” Mr. Mahoney then describes the understory vegetation that includes other native species, including spreading rush (*Juncus patens*), a facultative wetland species⁴ and slough sedge (*Carex obnupta*), an obligate wetland indicator species.

Due to the Arroyo willow, spreading rush and slough sedge, any future development of this parcel must comply with the LCP-required wetland 100-foot buffer zone; this setback may be reduced to no less than 50 feet only where no alternative site or design is possible, and adequacy of the alternative setback to protect wetland resources is conclusively demonstrated to the satisfaction of the County and CA Fish and Wildlife, per LCP Policy 7.18.

This parcel has a troubling history of unpermitted removal of riparian vegetation. In 2004-05 the former owner removed a significant area of Arroyo willow and was required to plant willows and flowering currant as mitigation for the riparian ESHA destruction. The initial mitigation did not survive due to lack of irrigation of plants in the summer season during a major drought. Subsequent mitigation was signed off after three years. What is the status of that mitigation area now? Notably, the Board of Supervisors at its September 9, 2008 meeting, upheld an appeal of the CDP to address the illegal clearing, and



approved the mitigation for the illegal clearing but refused to approve a reduced 20' buffer from the limit of riparian vegetation.

Condition #5 should include a statement regarding Appealability of future project.

Due to the presence of the riparian woodland and wetlands on site, any future development will require a Coastal Development Permit which is appealable to the California Coastal Commission, per Zoning Regulations Section 6328.3(s)(2) which states (in relevant part): "Projects appealable to the Coastal Commission....Projects located within 100 feet of any wetland". We request that a statement to this effect be included in Condition #5.

Thank you for consideration of our comments.

Sincerely,

Lennie Roberts, Legislative Advocate

cc: Summer Burlison, Project Planner
Erik Martinez, California Coastal Commission
Other Interested Parties