

Attachment D4

THURSDAY, AUGUST 9, 2012

The following action minutes are listed as they were acted upon by the Planning Commission and as listed on the agenda for the Regular Meeting of August 9, 2012 together with the maps and staff reports attached thereto and incorporated therein by reference.

HEARINGS ARE ADVERTISED FOR 9:00 A.M. HEARINGS GENERALLY PROCEED IN THE ORDER LISTED, UNLESS CHANGED BY THE PLANNING COMMISSION AT THE MEETING.

ROLL CALL (9:14 AM)

PRESENT: Commissioner(s) Tim Murphy, Ken Topping, Carlyn Christianson, Jim Irving, and Dan O'Grady.

ABSENT:

3. [Hearing to consider a request by the COUNTY OF SAN LUIS OBISPO to amend Sections 22.22 and 22.24, of the Land Use Ordinance, Title 22 of the County Code and the Land Use Element, Framework for Planning, referring to the Transfer of Development Credits \(TDC\) program. The proposed amendments will make minor word changes to the ordinance and will update the general plan language to reflect the current program. This project is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. It can be seen with certainty that there is no possibility that this project may have a significant effect on the environment; therefore, the activity is not subject to CEQA. \[Reference: State CEQA Guidelines sec. 15061\(b\)\(3\), General Rule Exemption\] County File No: LRP2008-00012 Supervisorial District: 1, 3, 4 & 5 Karen Nall, Project Manager Recommend the Board of Supervisors approve the amendments](#)
POST HEARING DETERMINATION: PC RECOMMENDED BOS APPROVAL
(10:41 AM)

Karen Nall, Project Manager: explains amendments made to the program.

Commissioners and staff: begin deliberations.

Dan O'Grady: opens Public Comment.

Jamie Kirk and Mike Brown: speak.

Tim McNulty, County Counsel: explains narrative of the General Plan as not being a policy or an objective.

Kami Griffin, Asst. Director: further explains there are policies in the Ag. Element that do support the creation of a TDC program.

Attachment D4

Tim Murphy: clarifies he feels there should be a TDC program, however typically it has been voluntary.

Tim McNulty, County Counsel: states this continues to be a voluntary program in which there are no obligations to property owners to seek a subdivision or a general plan amendment.

Tim Murphy: further explains his concern that it remains a condition in discretionary approval of subdivision to require a TDC, which does not seem voluntary, rather it is mandatory.

Tim McNulty, County Counsel: further explains the Framework for Planning has an implementing program calling for the TDC program to be amended to reflect the May 2011 amendments which made the ordinance more consistent with the Framework than it was prior to 2011.

Tim Murphy: further discusses the TDC program in terms of cost of TDCs. Comments on the Land Conservancy publication of costs for the TDC program associated to land owners seeking subdivision. Comments that the costs to landowners are large and had the Commission known of this at the time the Commission would have taken a different view on requiring TDCs for land divisions in south county. States for the record when the amendments were adopted by the Board of Supervisors (BOS) a landowner with a single family lot seeking division must purchase a TDC at the cost of \$75,000.00, for Residential Suburban a TDC is \$100,000.00 and for Residential Rural zoning a TDC costs \$150,000.00. States this testimony came from the Director of the Land Conservancy. Further states his concern for finding a nexus for TDC expense for someone trying to do a parcel map. Feels this has significant financial impacts to landowners seeking property divisions especially when it is the non-profit organization who sets the prices for the TDCs and there is no oversight or control over the price setting.

Jim Irving: asks Mr. Murphy if there is anything the Commission is being asked to vote that would speak to his points.

Tim Murphy: comments that he would have made a motion to approve the recommendation to accept the amendments by deleting Section 22.24.070.B21 in its entirety which is requiring the purchase of TDCs for land division.

Karen Nall, Project Manager: has concerns that deleting this section was not the section noticed in this particular case.

Tim Murphy: contends the notice states consideration of amendments to Sections 22, and 24.

Kami Griffin, Asst. Director: adds the description is for simple changes and general plan consistency.

Tim Murphy: explains he brought this up during the first hearing where he felt the Land Use Ordinance was being amended and not the TDC ordinance.

Attachment D4

Karen Nall, Project Manager: states the noticing was precise including notification proposing changes for all land divisions.

Kami Griffin, Asst. Director: clarifies the TDC ordinance is not a Land Use Ordinance. Reminds the Commission that they approved exceptions to the requirement for TDCs for which the BOS made stronger provisions of.

Tim Murphy: states the Commission amended Section 22.22.020, and stated the notices for Section 22.24.22.26. States his concern was the Commission accepting amendment to Title 22 land division, and not to the TDC ordinance. States a cross referenced section was inserted to reference Section 22.24.

Tim McNulty, County Counsel: clarifies this item being a broad example of an amendment and not referring to subsections and feels the agenda language is broad enough to include Mr. Murphy's proposed recommendation.

Tim Murphy: concludes his discussion by recommending his fellow Commissioners vote against the motion on the floor.

Thereafter, on motion of Dan O'Grady, seconded by Carlyn Christianson, and on the following vote:

AYES: Commissioner(s) Dan O'Grady, Carlyn Christianson, Ken Topping.

NOES: Commissioner(s) , Tim Murphy, Jim Irving.

ABSENT: None.

The Commission recommends the Board of Supervisors approve the Land Use Ordinance amendment LRT2008-00012 and amendments to the Land Use Element Framework for Planning based on the findings listed in Exhibit A.

Respectfully submitted,

Ramona Hedges, Secretary

SLO County Planning Commission

MINUTES APPROVED AT THE 9/13/12 PC.