

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 8/25/2015	(3) CONTACT/PHONE Megan Martin, Planner II / (805)781-4163	
(4) SUBJECT Hearing to consider an appeal by James Stevens of the Subdivision Review Board decision to require Condition of Approval 12 regarding the requirement for a Transfer of Development Credit as part of the approval of a Tentative Parcel Map (CO14-0053) to subdivide a 5 acre parcel into two 2.5 acre parcels located at 9522 Los Palos Road, south of the City of Atascadero; exempt from CEQA. District 5.			
(5) RECOMMENDED ACTION It is recommended that the Board adopt the resolution denying the appeal of James Stevens and affirming the decision of the Subdivision Review Board conditionally approving the application of James Stevens for a Parcel Map SUB2013-00074 (CO14-0053) based on the findings in Exhibit A and the conditions in Exhibit B of Attachment 1 (Board of Supervisors Resolution with Findings and Conditions).			
(6) FUNDING SOURCE(S) Appeal Fees	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> Hearing (Time Est. <u>30 min.</u>) <input type="checkbox"/> Board Business (Time Est. <u> </u>)			
(11) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR): N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: <input type="checkbox"/> 4/5 Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input checked="" type="checkbox"/> N/A Date: _____	
(17) ADMINISTRATIVE OFFICE REVIEW Lisa Howe			
(18) SUPERVISOR DISTRICT(S) District 5			

County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / Megan Martin, Planner II

VIA: Bill Robeson, Deputy Director - Permitting

DATE: 8/25/2015

SUBJECT: Hearing to consider an appeal by James Stevens of the Subdivision Review Board decision to require Condition of Approval 12 regarding the requirement for a Transfer of Development Credit as part of the approval of a Tentative Parcel Map (CO14-0053) to subdivide a 5 acre parcel into two 2.5 acre parcels located at 9522 Los Palos Road, south of the City of Atascadero; exempt from CEQA. District 5.

RECOMMENDATION

It is recommended that the Board adopt the resolution denying the appeal of James Stevens and affirm the decision of the Subdivision Review Board conditionally approving the application of James Stevens for a Parcel Map SUB2013-00074 (CO14-0053) based on the findings in Exhibit A and the conditions in Exhibit B of Attachment 1 (Board of Supervisors Resolution with Findings and Conditions).

DISCUSSION

On May 4, 2015 the Subdivision Review Board considered a proposal by James Stevens for a Tentative Parcel Map for the subdivision of a five (5) acre lot into two 2.5-acre lots. The subject site is within the Residential Suburban land use category, and is located at 9522 Los Palos Road, approximately 0.58 miles south of the City of Atascadero. The site is in the Salinas River sub-area of the North County planning area.

The Subdivision Review Board conditionally approved the project on May 4, 2015. A timely appeal of the decision was filed by James Stevens, the applicant, on May 14, 2015 (see Attachment 2).

APPEAL ISSUES

Appeal Issue. The appellant requests that the Board eliminate Condition of Approval 12.

Staff Response: Condition 12 requires the applicant to purchase a Transfer of Development Credit (TDC) prior to recordation of the parcel map. The appellant raised concerns that the Transfer of Development Credit Program is intended to provide credits for owners of lots that do not meet the minimum lot size requirements and could not otherwise subdivide their property. The appellant feels that the project site meets all zoning requirements and should therefore not be subject to payment of the TDC Program.

Transfer Development Credit Program

The County's Transfer of Development Credit (TDC) program was adopted in 1996 as a land use planning tool which allows for the movement (transfer) of development from one parcel of land to another. A site from which development credits have been transferred is called the "sending site", and has its development potential reduced or retired through recordation of a permanent conservation easement or other instrument. A site which receives development credits is called the "receiving site" and may be developed with a higher density than would otherwise be allowed under the current land use category or as otherwise set through planning area standards. The overall goal of the program is to encourage development in locations that can better support it, namely urban areas where services and public improvements are

more available or established, rather than rural areas.

The Board of Supervisors amended the Ordinance in 2011, adding language requiring the retirement of a TDC credit for any land division (parcel map or tract map) located outside of an urban or village reserve line (Section 22.22.020(D) and Section 22.24.070(B)(2)). Those rural subdivisions required to purchase TDC's are governed by Section 22.24.070(B)(2) rather than those "receiving sites" required to purchase density bonus TDC's governed by Section 22.24.060 and Section 22.24.070.

The tentative parcel map is a rural subdivision and is required to purchase one (1) TDC in order to subdivide the parcel. Credits are required to be purchased from a "sending site" within a five mile radius. If credits are not available within a five mile radius from the subject site, Section 22.24.080 requires that the source of the credits be located within the same geographical area. There are no credits available within a five mile radius of the subject site. However, there are TDC's available from an existing "sending site" within the same geographical area (North County planning area.)

Transfer Development Credit Exception

Although Land Use Ordinance Section 22.22.020(D) and 22.24.070(B)(2) require the transfer of a development credit for any land division located outside of a village or urban reserve line, Section 22.24.070(B)(3) provides an exception to the requirement for a TDC where the Review Authority first finds that: "Retirement of credits is unnecessary due to specific circumstances applicable only to the subject site (for example if credits are not available within the area defined in Section 22.24.080)".

Conclusion

The Subdivision Review Board considered the applicant's reasoning and discontent with the requirement of the TDC. The Subdivision Review Board discussed the issue and purpose of the TDC program and determined there was not adequate information to support the findings required by Section 22.24.070(B)(3) that would allow for an exception to be made to waive TDC requirements. Therefore, staff recommends that the tentative parcel map be required to retire (purchase) one (1) TDC credit as conditioned by the Subdivision Review Board.

OTHER AGENCY INVOLVEMENT/IMPACT

The project was referred to: Public Works, Environmental Health, Air Pollution Control District, Parks and Recreation, Cal Fire, Santa Margarita Fire, City of Atascadero, and the Santa Margarita Area Advisory Council.

FINANCIAL CONSIDERATIONS

The required appeal fee of \$850.00 was paid by the appellant.

RESULTS

Affirming the Subdivision Review Board's decision by denying the appeal of James Stevens will require the retirement of one (1) Transfer of Development Credit prior to recordation of the parcel map.

Upholding the appeal and modifying the Subdivision Review Board's action by eliminating Condition of Approval 12, would allow the Tentative Parcel Map (CO14-0053) to be recorded without the retirement of one (1) credit.

This appeal hearing is consistent with the countywide goal of promoting well-governed, livable communities.

ATTACHMENTS

1. Attachment 1 - Board of Supervisors Resolution with findings and conditions
2. Attachment 2 - Appeal letter, May 14, 2015
3. Attachment 3 - Minutes, from the May 4, 2015 Subdivision Review Board
4. Attachment 4 - Staff Report, from the May 4, 2015 Subdivision Review Board hearing