



COUNTY OF SAN DIEGO

LAND USE AGENDA ITEM

BOARD OF SUPERVISORS

NORA VARAGAS
First District

JOEL ANDERSON
Second District

TERRA LAWSON REMER
Third District

VACANT
Fourth District

JIM DESMOND
Fifth District

DATE: November 08, 2023, and December 06, 2023

06

TO: Board of Supervisors

SUBJECT

NEWSOM PARCEL OPEN SPACE VACATION AND AN ADDENDUM TO PREVIOUSLY ADOPTED MITIGATED NEGATIVE DECLARATION, PDS2022-VAC-22-003; JULIAN COMMUNITY PLAN AREA (11/8/2023 – SET HEARING; 12/6/2023 – HOLD HEARING) (DISTRICT: 2)

OVERVIEW

Planning & Development Services (PDS) is processing a request from Tom Newsom (the Applicant(see Attachment B, Ownership Disclosure) to vacate a Biological Open Space Easement and Limited Building Zone Easement Vacation (Vacation) (see Attachment B, Open Space Area to be Vacated and Rededicated) which is located on a privately owned parcel in the Julian Community Plan Area, within unincorporated San Diego County (see Attachment A, Vicinity Map). The Vacation is proposed within a vacant and undeveloped 4.4-acre parcel that is located south of Winn Ranch Road, approximately 1,100ft east of Highway 79. The applicant is currently in the permitting process with PDS to develop a single-family home on the parcel. Currently, 2.56-acres of the property are Biological Open Space and 1.32-acre has a Limited Building Zone Easements that were recorded May 7, 2007 (Attachment F, Recorded Biological Open Space and Limited Building Zone Easements), in accordance with the Tentative Parcel Map Decision of Approval (TPM-20571RPL). Concurrently, a rededication is proposed for a 2.59-acre Biological Open Space Easement and a 1.28-acre Limited Building Zone Easement in the parcel.

On September 19, 2002, the County Department of Environmental Health and Quality approved a septic layout (Percolation Test Report No. P03463, see Attachment F). In 2007 the property owner at that time, submitted an application for Tentative Parcel Map (TPM-20571RPL) that would divide the property into four lots. During the approval process for the Tentative Parcel Map, there was a clerical oversight, and the Biological Open Space Easement was placed over the already approved septic location. Today, the applicant, who is also the new property owner, is requesting the Vacation and a rededication of the open space to correct the easement configuration so that the applicant may construct the septic system in the location originally approved by the County of San Diego. The parcel's terrain does not allow for a septic system to be located anywhere else except where it was approved in 2002, as there are numerous rock sediment boulders, making it unsuitable for septic system development (Attachment F). Relocating the easement will allow for a septic

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system, consisting of an underground septic tank, a distribution box, baffles, and a drain field to be used for the single-family home project being developed.

A rededication of the easement will reconfigure 2.59-acre Biological Open Space Easement and 1.28-acre Limited Building Zone Easement to ensure the parcel's continued compliance with the previously approved Mitigated Negative Declaration (MND) mitigation measures. The proposed rededication, which requires easements restricting certain uses of the property to support the conservation of sensitive habitat lands, must be recorded by the Clerk of the Board.

Today's request requires two steps: November 8, 2023, it is requested that the Board set a date for a public hearing on December 6, 2023, and provide public notice of that hearing, which includes signage at the project site. If the Board takes the actions recommended for today, then on December 6, 2023, it is requested that the Board consider and adopt a resolution to vacate the referenced open space easements, record A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO VACATING OPEN SPACE EASEMENT AND LIMITED BUILDING ZONE EASEMENT PDS2022-VAC-22-003, and record the BIOLOGICAL OPEN SPACE EASEMENT AND LIMITED BUILDING ZONE EASEMENT concurrently.

RECOMMENDATION(S)
CHIEF ADMINISTRATIVE OFFICER

On November 8, 2023, take the following actions:

1. Set a public hearing on December 6, 2023, at 9:00 a.m. to consider vacating the 2.56-acre Biological Open Space Easement and 1.32-acre Limited Building Zone Easement (doc no. 2007-0311635 and 2007-0311636) and replacing it with a 2.59-acre Biological Open Space Easement and 1.28-acre Limited Building Zone Easement (Attachment B).
2. Direct the Clerk of the Board of Supervisors (Clerk) to provide notice of the hearing via publication and posting as required by law.

If on November 8, 2023, the Board takes action recommended in items 1-2, then on December 6, 2023:

1. Adopt the environmental findings, which include findings in accordance with Section 15162 and 15164 of the California Environmental Quality Act (CEQA) Guidelines that there are no substantial changes in the Vacation or in the circumstances under which the Vacation is undertaken that involve significant new environmental impacts which were not considered in the previously adopted Mitigated Negative Declaration (MND) dated February 24, 2004, that there is no substantial increase in the severity of previously identified significant effects, and that no new information of substantial importance has become available since the MND was adopted (Attachment C).

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2. Adopt the Resolution entitled A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO VACATING BIOLOGICAL OPEN SPACE AND LIMITED BUILDING ZONE EASEMENTS PDS2022-VAC-22-003 (Attachment D).
3. Direct the Clerk of the Board to record the Resolution pursuant to the Streets and Highways Code Section 8325 and record the BIOLOGICAL OPEN SPACE EASEMENT AND LIMITED BUILDING ZONE EASEMENT (Attachment E) concurrently.

EQUITY IMPACT STATEMENT

The Newsome Vacation (Vacation) will result in a 2.59-acre Biological Open Space Easement and a 1.28-acre Limited Building Zone Easement which will preserve land and biological resources within San Diego County and Julian Community on a 4.4- acre private property. The proposed easement vacation is unnecessary for current or future public use as a public service easement. The location of the property will contribute to preserving biological resources within the Julian Community and assist with long-term preservation of biological resources within San Diego County. The preservation of this land will enhance the quality of the environment within the region by contributing to sustainability and conservation of land in perpetuity that promotes an environment where communities can prosper.

SUSTAINABILITY IMPACT STATEMENT

The purpose of this Vacation is to rectify an oversight that occurred in the creation of a parcel from a recorded 2007 Parcel Map, the Vacation proposes to vacate a Biological Open Space Easement and Limited Building Zone Easement and concurrently rededicate a Biological Open Space Easement and Limited Building Zone Easement. At Vacation completion, there will be an overall increase in the amount of Biological Open Space on the parcel. The Vacation does not present a substantial change to the previously approved project as it will conserve sensitive habitat lands in perpetuity.

FISCAL IMPACT

Funds for this request are not included in the Fiscal Year 2023-24 Operational Plan in Planning & Development Services. If approved, this request will result in estimated costs and revenue of \$16,415 for the Open Space Vacation and will cover the staff time involved with preparing the resolution, public notice, board letter, and public hearing documents. The funding source for this project is provided by Tom Newsom (The Applicant). There will be no change in net General Fund cost and no additional staff years.

BUSINESS IMPACT STATEMENT

N/A

ADVISORY BOARD STATEMENT

The proposed Vacation has been reviewed by the Julian Community Planning Group (JCPG). On October 10, 2022, the JCPG recommended approval of the Vacation by a vote of 8-0-0-0-3 (Ayes – 8, Noes – 0, Abstain – 0, Absent – 0, Vacant – 3) (Attachment F).

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BACKGROUND

Planning & Development Services (PDS) is processing a request from the Applicant to vacate a Biological Open Space Easement and Limited Building Zone Easement Vacation (Vacation) which is located on a privately owned parcel in the Julian Community Plan Area, within unincorporated San Diego County (see Attachment A, vicinity map). The Vacation is proposed within a vacant and undeveloped 4.4-acre parcel that is located south of Winn Ranch Road, approximately 1,100ft east of Highway 79. Currently, 2.56-acres of the property are Biological Open Space and 1.32-acre have Limited Building Zone Easements that were recorded May 7, 2007, in accordance with the Tentative Parcel Map Decision of Approval (TPM-20571RPL).

On September 19, 2002, the County Department of Environmental Health and Quality approved a septic layout (Attachment F) under Percolation Test Report No. P03463, outlining the main septic field in a flat area without numerous rock sediment boulders. In 2007, Parcel Map 20253 was recorded, which created four lots, including the project site (Parcel 2), and dedicated a Biological Open Space Easement and Limited Building Zone Easement on the project site. The Biological Open Space Easement and Limited Building Zone easements were dedicated for the purpose of compliance with the California Environmental Quality Act (CEQA) under Mitigated Negative Declaration dated February 24, 2004 (Attachment F). However, in the processing of Tentative Parcel Map 20571, there was an oversight in placing the Biological Open Space Easement over the intended septic location.

The oversight occurred when the approved septic Percolation Test Report (Attachment F) was left out of the required documentation for the 88.74-acre Tentative Parcel Map Application (Attachment F, Learn Minor Subdivision TPM-20571RPL). Consequently, the approved septic layout was not acknowledged in the recorded open space easements (Attachment F, doc no. 2007-0311635 and 2007-0311636). PDS has now improved its procedures to prevent such oversights by reviewing proposed open space easements concurrently with project construction plans. The Applicant, who purchased the parcel on January 12, 2021, is currently in the permitting process with PDS to develop a single-family home and was not involved in the subdivision that was recorded in 2007 (Parcel Map 20253).

Currently, the Parcel Map incorrectly shows the septic area within the Limited Building Zone Easement on APN 294-011-77, which is situated in a rocky area, more distant from the designated building pad intended for a single-family home. This Vacation and subsequent Rededication are required to reconfigure the Biological Open Space Easement and Limited Building Zone Easement where they were originally meant to be placed to accommodate a septic system in the approved location on the property, while still protecting sensitive biological resources.

Today's request requires two steps in accordance with the California Streets and Highways Code: On November 8, 2023, it is requested that the Board of Supervisors (Board) set a date for a public hearing on December 6, 2023, and notice the hearing with on-site signage to vacate the 2.56-acre Biological Open Space Easement and 1.32-acre Limited Building Zone Easement (doc no. 2007-0311635 and 2007-0311636). If the Board takes the actions recommended for today, then on

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December 6, 2023, it is requested that the Board consider and adopt a resolution to vacate the referenced Biological Open Space Easement and Limited Building Zone Easement.

Board Policy I-103; Open Space Easement Vacations

Board Policy I-103 requires the vacation to be: (1) consistent with the County General Plan; (2) unnecessary for current or future public use as a public service easement; and (3) in compliance with CEQA and State and County Guidelines, and not have a significant effect on the environment. The vacation is consistent with the County General Plan because the existing use on the subject parcel will not change, and it is in conformance with the Julian Community Plan. The Vacation complies with CEQA and County Guidelines because it does not present a substantial change to the previously approved Mitigated Negative Declaration (MND). Because there are no substantial changes in circumstances, no new environmental effects, and no substantial increase in severity of previously identified significant effect which would require major revisions to the previously adopted MND with the Rededication of the easements, an Addendum was prepared (see, Attachment H, Environmental Documentation).

ENVIRONMENTAL STATEMENT

The proposed Biological Open Space Easement and Limited Building Zone Easement vacation has been reviewed for compliance with California Environmental Quality Act (CEQA). A Mitigated Negative Declaration (MND) for the Learn Minor Subdivision was adopted on February 24, 2004, as Environmental Review No. PDS2000-3910-0010008 and LOG NO. 00-10-008 (see, Attachment H, Environmental Documentation). The adopted MND found sensitive habitat lands that support unique vegetation communities or habitats of rare or endangered species as defined by section 15380 of CEQA. Impact to these sensitive habitat lands were determined to be mitigated to a level below significance with the dedication of Biological Open Space Easement and Limited Building Zone Easement. The Vacation does not present a substantial change to the previously approved project. At Vacation completion, there will be an overall increase in the amount of Biological Open Space on the parcel. There are no substantial changes in the Vacation or in the circumstances under which were not considered in the previously adopted MND dated February 24, 2004; there is no substantial increase in the severity of previously identified significant effects; and there is no new information of substantial importance has because available since the MND was adopted. Pursuant to Section 15164(b) of CEQA, the Vacation may rely on the previously adopted MND with the preparation of an Addendum.

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LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

This proposed action to vacate and rededicate Biological Open Space and Limited Building Zone Easements supports the Sustainable Environments/ Housing Strategic Initiative in the County of San Diego's 2023-2028 Strategic Plan by enhancing the quality of the environment by focusing on sustainability and conservation of land in perpetuity that promotes an environment and utilizes policies, facilities, and infrastructure to provide housing opportunities where communities can prosper.

Respectfully submitted,



SARAH E. AGHASSI
Deputy Chief Administrative Officer

Note: Due to the size of the attachments, the documents are available online through the Clerk of the Board's website at <https://www.sandiegocounty.gov/content/sdc/cob/bosa.html>.

ATTACHMENT(S)

Attachment A – Vicinity Map

Attachment B – Open Space Area to be Vacated and Rededicated

Attachment C – Environmental Findings

Attachment D – A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY
OF SAN DIEGO VACATING BIOLOGICAL OPEN SPACE EASEMENT
AND LIMITED BUILDING ZONE EASEMENT
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Attachment E – Biological Open Space Easement & Limited Building Zone Easement

Attachment F – Plot Plan, Recorded Biological Open Space and Limited Building Zone
Easements, Percolation Test Report No. P03463, Julian Community Planning
Group Recommended Approval

Attachment G – Ownership Disclosure

Attachment H – Environmental Documentation