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Building Division
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WATER CONVEYANCE ADVISORY COMMITTEE

MINUTES OF THE MAY 2, 2016 MEETING

I. Call to Order

Dennis Jensen called the meeting to order at 4:03 p.m.

WCAC members present: Dennis Jensen, Russell Scossa and Fred Stodieck

WCAC member absent: Kurt Dreyer and David Hussman

Staff present: Cynthea Gregory, District Attorney
Mimi Moss, Community Development Director
Erik Nilssen, County Engineer (Staff Contact for WCAC)
Heather Anderson, Senior Planner

Public present: Matt Bernard
Vernon O Waldrep

II. Public Comment

Mr. Jensen asked if there was any public comment; there was none.

III. Approval of Agenda

Mr. Jensen asked if there was any public comment on the agenda; there was none.

Motion made by Mr. Scossa to approve the agenda as presented; seconded by Mr. Stodieck. Motion carried unanimously.

IV. Disposition of the April 4, 2016 WCAC minutes.

Mr. Jensen asked if there was any public comment on the minutes; there was none.

Motion made by Mr. Stodieck to approve the minutes as mailed, with no deletions, additions or corrections; second by Mr. Scossa. Motion carried unanimously.

V. Public Comment

No public comment; public comment closed.

VI. Discussion and Possible Action.

For Possible Action: Discussion on irrigation, drainage and water facilities which may be impacted by a request for a Tentative Parcel Map that proposes to divide approximately 40.00 acres into two parcels, the smallest being 3.47 acres in size. The subject property is located on the east side of North Hwy 395, approximately 1,360 feet north of Airport Road in the A-19 (Agricultural – 19 acre minimum parcel size) zoning district in the Airport Planning Area. The applicant is Andre & Carol Aldax. APN 1320-07-001-004. (LDA 16-006)

Matt Bernard from RO Anderson Engineering said 2 acres is the minimum. When Andy and Carol first called him they walked around and had a lot smaller piece of property in mind that they wanted to carve out. We have the code provision which states it has to be no less than 2 and not greater than 5. We ended up somewhere short of Hwy 395 and I advised them that they would likely have a new address. They have had the same address for 40+ years and they didn't want a new one. This is as simple as to abut Hwy 395 so their address doesn't change and extend a ways past their house that they both agree to. If you look at the existing sheds and barns that are there, we made sure we stayed away from the sheds and any required setback. Mr Stodieck asked if they would rename the street in front of their house. Mr Bernard responded that they hoped to keep their Hwy 395 address.

Mr Bernard said the reason they did not propose any easements on this map is Andy thinks someday he won't be ranching this thing and he might fence in his property and he doesn't want people coming and going what he might end up fencing in and calling his home. It is Andy's belief that he can easily divert the water out of this ditch which already has an easement. It has been to the committee before years ago when they did a Land Division map. He can divert it right down the edge of the field and right over where it gets delivered right now. That would all be on his own property or someone would end up buying the rest of his ranch. There would be no need to deliver the water across there although historically that is where it comes from.

Mr Bernard said that Andy had not wanted to have an easement across that ditch. Mr Scossa said that makes sense and it is his property he can do what he wants with it as long as there isn't something out there that says if you sell this that person can't get water there. If that's workable and keeps the easement off of his property and keeps everyone happy. Mr Bernard said that is the intention of the map.

Erik Nilssen said that the person that buys that would need access to be able to clear the ditch and get his irrigation water so in his opinion an easement would need to be put in place and if they change the location of water delivery they could easily abandon the easement.

Mr Bernard said they wouldn't need the easement. Mr Nilssen agreed that it would be on one parcel and you would not need an easement, but he would say the easement would need to be in

place until the physical improvements were completed because at this time they need a way to get to there to service their delivery across Andy's proposed parcel.

Mr Scossa said there may need to be a ditch proposal at the time of sale of this property. But until he sells it or if he sells it and the new owner knows he has to dig a ditch there is no reason to put an easement on here. Mr Scossa thinks he knows what is going on here and there is no reason to obstruct this property with another easement because he thinks it will go into another ownership pretty soon.

Mr Bernard said since that is of record now he will tell you that at the end of the day that is the desire of the Aldax's.

Mr Nilssen asked if you would place a deed restriction on the parcel stating that with the sale of the back property the irrigation would have to be run off the existing easement off the southeast side of the property. Mr Bernard said he wouldn't tell the rancher how to irrigate. He would tell him he can get water wherever he needs to get water. He doesn't need an easement to achieve that. Mr Scossa said it all comes from the same irrigation system. The intention is to dig a ditch when they are done and deliver water back to this exact same spot and they don't need an easement to do that. Once you get an easement on a map it's pretty hard to get rid of.

Mr Nilssen said if it's an easement to the downstream he doesn't think it would be difficult to get rid of.

Ms Moss said what if there was a note on the map that mentioned if the location is changed on either property, an easement can be recorded, if necessary.

Mr Scossa said he is sure these owners have already addressed that issue. That's why he isn't holding this to some of the standards they have. If someone hadn't already had the post-sale then there should be a note. Mr Stodieck said the cure would be just a note that if these two parcels are separate owners, the new owner has to bring it down and go around. This triangle piece doesn't have any downstream users.

Mr Scossa stated our purpose here is not to obstruct people and make things tougher for them, it's to make sure the downstream users can get something across to their parcel. Mr Bernard said that Andy doesn't want an easement on what he keeps, he just wants to build a fence on whatever he ends up with and let Bently do what he does and not have people driving across his property.

Ms Moss stated that based on what they are saying regarding no downstream users and the parties have come to some agreement on what may or may not happen in the future and if Andy is not going to be harmed by that in the future to where he doesn't need to get the water for his purposes. Mr Bernard stated that Andy will always take it in the manner he always has. He will still irrigate between here and the highway in the manner he always has. He might even let it go through and let them use it. He doesn't want the obstruction of the easement.

Mr Nilssen asked about the easement along the west side of the property line along highway 395 because that does have downstream irrigation users. I don't see an easement called out along the west side of the parcel. Mr Bernard stated that it is return water and would collect down here and the highway acts as a dam. Mr Stodieck stated he wasn't too sure it didn't back in there. Mr Bernard stated there is no conveyance ditch going along the east side of Highway 395 that delivers water.

Mr Scossa stated that what they are proposing is workable. He doesn't have any problem with it. Mr Stodieck asked Mr Bernard if the water right decree claim numbers were on the old map. Mr Bernard stated that he was not sure. Mr Stodieck stated that was one of the things they ask for. Mr Bernard said his remembrance of what they did with the claims numbers was that we quit depicting them as they are subject to migration. So when they put them on the recorded maps it was nothing but dangerous. A potential buyer would look at a map and say Oh look claim #827 priority 1859 is on this property and in the interim a land owner had taken an action to remove the water right.

Mr Stodieck asked if there was any public comment; Vernon Waldrep wanted clarification as to anytime there was an irrigation ditch dug does the easement go along with it. Is that the order? Mr Nilssen stated that code requires any downstream user still have access to maintain and clean the ditch above them. Generally code requires an easement over them. Mr Waldrep asked who was below him. There are no downstream users at this time. The parcel they are selling is below them. A new owner will be below him. Mr Waldrep asked if the meeting is on the 12th. Mr Bernard replied that was the Administrative Hearing Panel. Ms Anderson stated there is a meeting on the 12th to consider the creation of 3.4 acres. Mr Waldrep stated maybe they do want water down there. Someone is going to need water.

Mr Scossa said what they are doing is keeping a 3 acre parcel where is house and barns are and selling the rest of the property. The new owner will probably have to dig a ditch to get to a certain part of that new property that Andy used to have to irrigate it but it doesn't go to anyone else but the person he is selling the property to. Mr Waldrep replied that he will maintain it himself and Mr Scossa stated the new person would. It's not going to be pushed back onto anyone else. Fortunately there aren't any other downstream users from this parcel. It's not as complex as you would think by looking at the regulations.

Mr Jensen asked if there was any public comment; there was none.

Motion made by Mr. Scossa to accept as presented; second by Mr Stodieck. Motion carried unanimously.

Administrative

Mr. Jensen asked the panel if any correspondence had been received since the last meeting; there was none.

Adjournment

The meeting was adjourned at 4:30 pm by Mr Stodieck.

Respectfully submitted,

Dennis Jensen
Chairman (acting)

Mimi Moss
Community Development Director