

Resolution 08-09

of the

San Mateo County Harbor District

To Approve a Tolling Agreement Between the County of San Mateo and the San Mateo County Harbor District

Whereas, the San Mateo County Harbor District (District) owns a parcel of land (APN 047-262-010) in the unincorporated community of El Granada, San Mateo County (County), which is presently zoned Community Open Space Conservation (COSC); and

Whereas, the County has amended its Zoning Regulations, subject to pending approval by the California Coastal Commission, to bar residential development within that zoning district, but the amendment contains certain "grandfathering" provisions; and

Whereas, On September 25, 2007, the District submitted to the County an application for a Coastal Development Permit (CDP) for its parcel APN 047-262-010, and asserted that the District had complied with the "grandfathering" requirements; and

Whereas, the District now desires to sell its El Granada parcel to the Granada Sanitary District (GSD), for use by GSD and the Sewer Authority Mid-Coast (SAM) for an improvement to its sewage treatment system; and

Whereas, in connection with this sale proposal, the District desires to have tolled and held in abeyance any legal rights that it may have resulting from its CDP application while GSD and/or SAM pursue approvals needed for the proposed sewage system project on the District's El Granada parcel, and that tolling the District's rights shall not be prejudiced by any action or inaction by the County or the Coastal Commission; and

Whereas, the County, by action of its Board of Supervisors on April 28, 2009, has agreed that it is in all parties; best interest to enter into such a tolling agreement.

Therefore, be it resolved that the Board of Harbor Commissioners hereby approves the tolling agreement attached hereto and incorporated by reference herein, and does hereby adopt this Resolution 08-09.

Approved this 20th Day of May, 2009 at the regular meeting of the Board of Harbor Commissioners by a recorded vote as follows:

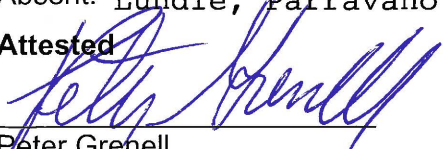
For: Campbell, Padreddii, Tucker

Against: None

Abstaining: None

Absent: Lundie, Parravano

Attested


Peter Grenell
Acting Deputy Secretary

DISTRICT


Leo Padreddii
President

TOLLING AGREEMENT

This Tolling Agreement (“Agreement”) is entered into this _____ day of _____, 2009, by and between the County of San Mateo (“County”) and the San Mateo County Harbor District (“District”).

Recitals

- A. On November 14, 2006, the County’s Board of Supervisors adopted Ordinance No. 04343, which approved certain planning and zoning actions related to the County’s Community Open Space Conservation (“COSC”) District.
- B. The District owns a parcel located within the COSC District; specifically, APN 047-262-010.
- C. Among other things, the County’s actions related to the COSC District included an amendment to the County Zoning Regulations that would bar residential development within that district, except that the amendment contains certain “grandfathering” provisions.
- D. These actions, which are a component of the County’s Local Coastal Program, require the approval of the California Coastal Commission before they become effective and the Commission has yet to take action on them.
- E. On September 25, 2007, the District submitted to the County Planning Department an application for a single family home and detached garage on APN 047-262-010 that was assigned Planning Application Number PLN 2007-00392. The District asserts that the filing of this planning application is sufficient to qualify for grandfathering under the proposed Zoning Regulation amendments.
- F. The District is now in negotiations to sell APN 047-262-010 to the Granada Sanitary District (“GSD”) for use by GSD and the Sewer Authority Mid-Coast (SAM) for an improvement to its sewage treatment system.
- G. In connection with this proposal to sell the parcel to the GSD, the District seeks to have tolled and held in abeyance any legal rights that it may have connected with and as a result of having filed Planning Application Number PLN 2007-00392 during the time that GSD and/or SAM pursue applications and permits needed for the proposed sewage treatment system improvements on AN 047-262-010.
- H. The County agrees that it is in all parties’ best interest to enter into such a tolling agreement.

NOW THEREFORE, the parties hereto agree as follows:

1. The running of any applicable statute of limitations with regard to any legal action that the District may choose to bring against the County with respect to the District's pending application, Planning Application Number PLN 2007-00392 is hereby tolled for a period beginning on September 25, 2007 and terminating on June 30, 2010, and, during that time, shall not be prejudiced by any action or inaction by the County or the California Coastal Commission. This tolling includes, but is not limited to, the claim by the District that the filing of Planning Application Number PLN 2007-00392, along with the payment of applicable fees, entitles it to the benefit of the "grandfathering" provisions of the revised COSC zoning regulations.
2. Any rights that the District may have in connection with the filing of Planning Application Number PLN 2007-00392 are hereby tolled and held in abeyance beginning on September 25, 2007 and terminating on June 30, 2010, and, during that time, shall not be prejudiced by any action or inaction by the County or the California Coastal Commission.
3. By entering into this Agreement, neither party is waiving any claims or defenses, either procedural or substantive, that it may make in the event that legal action is filed by the District with respect to Planning Application Number PLN 2007-00392, except as specifically provided herein.
4. This Agreement may be executed in counterparts.

Dated:

SAN MATEO COUNTY HARBOR DISTRICT

By:

Dated:

COUNTY OF SAN MATEO

By: