



COUNCIL AGENDA REPORT

DATE: JANUARY 5, 2007
TO: MAYOR AND TOWN COUNCIL
FROM: ORRY P. KORB, TOWN ATTORNEY *OK*
SUBJECT: 16961 PLACER OAKS ROAD

A. ADOPT RESOLUTION GRANTING AN APPEAL OF A PLANNING COMMISSION DECISION TO GRANT AN APPEAL DENYING A TWO LOT SUBDIVISION (LOT LINE ADJUSTMENT) ON PROPERTY ZONED R-1:8. SUBDIVISION APPLICATION M-06-01

B. ADOPT RESOLUTION GRANTING AN APPEAL OF A PLANNING COMMISSION DECISION TO GRANT AN APPEAL DENYING DEMOLITION OF A SINGLE FAMILY RESIDENCE AND CONSTRUCTION OF TWO NEW RESIDENCES ON PROPERTY ZONED R-1:8;
ARCHITECTURE AND SITE APPLICATION: S-06-016 (LOT #1);
ARCHITECTURE AND SITE APPLICATION: S-06-017 (LOT #2).

The proposed resolution concerning the subdivision application for a lot line adjustment includes a finding (improperly numbered G.i.) of General Plan consistency. The version attached to the original staff report states in pertinent part: "The project, including the lot line adjustment, is consistent with the Los Gatos General Plan" That finding is too broad for purposes of this resolution, which does not address the remainder of the project. Consequently, the finding is amended in the revised version attached to this desk item removing the reference to the project. The recitals have also been renumbered.

Attachment: Revised Resolution Granting an Appeal of a Planning Commission Decision to Grant an Appeal Denying a Two Lot Subdivision (Lot Line Adjustment)

PREPARED BY: ORRY P. KORB, TOWN ATTORNEY

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Reviewed by: *AK* Town Manager *PSJ* Assistant Town Manager _____ Clerk
Finance _____ Community Development

Rev: 1/16/07 10:48 am

Reformatted: 7/19/99

File# 301-05

RESOLUTION

RESOLUTION GRANTING AN APPEAL OF A PLANNING COMMISSION DECISION TO GRANT AN APPEAL DENYING A TWO LOT SUBDIVISION (LOT LINE ADJUSTMENT) ON PROPERTY ZONED R-1:8

APN: 529-14-059

SUBDIVISION APPLICATION: M-06-01

PROPERTY LOCATION: 16961 PLACER OAKS ROAD

PROPERTY OWNER/APPELLANT: HOWELL & MCNEIL DEVELOPMENT LLC

WHEREAS:

A. This matter came before the Town Council for public hearing on December 18, 2006, and was regularly noticed in conformance with State and Town law.

B. Council received testimony and documentary evidence from the appellant/applicant and all interested persons who wished to testify or submit documents. Council considered all testimony and materials submitted, including the record of the Planning Commission proceedings and the packet of material contained in the Council Agenda Report dated December 14, 2006, along with subsequent reports and materials prepared concerning this application.

C. The applicant is requesting approval of a lot line adjustment between two parcels, demolition of a single family residence and the construction of two single family residences. The applicant proposes to construct a 3,185 square foot, one-story home on Lot 1 and a 3,165 square foot, two-story home on Lot 2. Council's decision on the appeal of the Planning Commission decision effectively denying Architecture and Site approval for the demolition of the existing house and construction of two new houses is addressed in a separate resolution adopted concurrently herewith (Resolution 2007-__).

D. The applications were considered by the Planning Commission on May 10, 2006, which continued the matter with the following directions:

- i. House sizes should be in the 2,400 sq. ft. range.
- ii. Look at using building materials that will allow the interior sound levels of the houses to meet the noise standards of a multiple family dwelling unit to reduce noise impacts.
- iii. Consider 22'-0" overall height.

E. The applications were again considered by the Planning Commission on June 28, 2006, which remanded the applications to the Development Review Committee for final action with the following directions:

- i. The house on Lot 1 shall be one story.
- ii. The height of the house on Lot 2 shall be reduced by 1.5 feet.
- iii. The roof color on Lot 2 shall be darkened to ensure it is not a red clay tile roof.

F. The applications were considered by the Development Review Committee on September 26, 2006, which acted to approve the proposed plans based on the finding that the applicant's revisions met the direction of the Planning Commission. This decision was appealed by a neighboring resident.

G. An appeal of the Development Review Committee's decision was considered by the Planning Commission on October 25, 2006, which acted to grant the appeal to deny the applications. The Planning Commission based its decision on the finding that its intention from the June 28, 2006 hearing was to reduce the square footage of both houses to the 2,200-2,400 sq. ft. range as well as reduce the height of the house on Lot 1 to one story. The requirement to reduce the size of the homes was not in their motion.

H. The applicant/appellant claims that the Planning Commission erred or abused its discretion in that the houses are compatible with the neighborhood in terms of the proposed square footages, number of stories, and the subject lots being among the larger lot sizes in the neighborhood, which allows a larger floor area ratio (FAR).

I. The decision of the Planning Commission was incorrect and is hereby reversed.

J. Council finds as follows:

i. The lot line adjustment is consistent with the Los Gatos General Plan, as evidenced by staff reports demonstrating that the proposed residential use is allowed under the existing zoning and does not violate any provisions of the General Plan.

ii. Pursuant to Town Code section 29.20.300, the Planning Commission erred in denying the application for the lot line adjustment without making the necessary findings.

RESOLVED:

1. The appeal of the decision to deny subdivision application M-06-01 is granted and the application is approved subject to the conditions attached as Exhibit "A" hereto.

2. The decision constitutes a final administrative decision pursuant to Code of Civil Procedure section 1094.6 as adopted by section 1.10.085 of the Town Code of the Town of Los Gatos. Any application for judicial relief from this decision must be sought within the time limits and pursuant to the procedures established by Code of Civil Procedure section 1094.6, or such shorter time as required by State and Federal Law.

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PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los

Gatos, California on the _____ day of January 2007, by the following vote.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

CLERK ADMINISTRATOR
TOWN OF LOS GATOS, CALIFORNIA