



MEETING DATE: 03-19-2007

AGENDA ITEM:

6

COUNCIL AGENDA REPORT

DATE: MARCH 14, 2007

TO: MAYOR AND TOWN COUNCIL

FROM: ORRY P. KORB, TOWN ATTORNEY *OK*

SUBJECT: ADOPT RESOLUTION GRANTING AN APPEAL OF A DECISION OF THE PLANNING COMMISSION DENYING AN APPLICATION FOR A TWO LOT SUBDIVISION ON PROPERTY ZONED HR-2 ½ AND REMANDING SAID APPLICATION TO THE PLANNING COMMISSION. APN: 527-11-005. SUBDIVISION APPLICATION: M-06-4. NEGATIVE DECLARATION: ND-06-4. PROPERTY LOCATION: 15500 FRANCIS OAKS WAY. PROPERTY OWNER/APPLICANT/APPELLANT: MIKE AND ANN MOFFAT.

RECOMMENDATION:

Adopt resolution granting an appeal of a decision of the Planning Commission denying an application for a two lot subdivision on property zoned HR-2 ½ and remanding said application to the Planning Commission.

DISCUSSION:

On March 5, 2007, Council decided to grant an appeal of a decision of the Planning Commission denying an application for a two lot subdivision on property zoned HR-2 ½ and to remand said application to the Planning Commission. The attached resolution finalizes that decision.

Attachment: Proposed Resolution

PREPARED BY: ORRY P. KORB, TOWN ATTORNEY

OPK:LMB/wp [N:\ATY\Report 15500 Francis Oaks (Moffat).wpd]

Reviewed by: *[Signature]* Town Manager *PSJ* Assistant Town Manager _____ Clerk
Finance *SLB* Community Development

Rev: 3/15/07 2:19 pm

Reformatted: 7/19/99

File# 301-05

RESOLUTION

RESOLUTION GRANTING AN APPEAL OF A DECISION OF THE PLANNING COMMISSION DENYING AN APPLICATION FOR A TWO LOT SUBDIVISION ON PROPERTY ZONED HR-2 ½ AND REMANDING SAID APPLICATION TO THE PLANNING COMMISSION

APN: 527-11-005

SUBDIVISION APPLICATION: M-06-4

NEGATIVE DECLARATION: ND-06-4

PROPERTY LOCATION: 15500 FRANCIS OAKS WAY

PROPERTY OWNER/APPLICANT/APPELLANT: MIKE AND ANN MOFFAT

WHEREAS:

A. This matter came before the Town Council for public hearing on March 5, 2007, and was regularly noticed in conformance with State and Town law.

B. Council received testimony and documentary evidence from the applicant/appellant 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 February 27, 2007, along with any and all subsequent reports and materials prepared concerning this application.

C. The appeal concerns a decision of the Planning Commission denying an application for a two lot subdivision on property zoned HR-2 ½. The subject 8.1 acre property is located on the south side of Francis Oaks Way at the westerly terminus of the road. Francis Oaks Way is a private road and is not maintained by the Town. There is an existing residence on the site that was approved by the Town Council in 2000. The original application proposed lot sizes of 6.9 acres and 1.2 acres.

D. The application was considered and denied by the Planning Commission on

December 13, 2006. The applicant/appellant appealed the Commission's decision on December 22, 2006.

E. The applicant/appellant claims that the Planning Commission erred or abused its discretion in finding that the proposed subdivision is inconsistent with the zoning code, and in its finding that the site is not physically suitable for the proposed density and/or type of development.

F. Given the Planning Commission's concern about the relatively small size of the second parcel, the applicant indicated a willingness to make the parcel larger.

G. Council finds that new information was presented that was not readily or reasonably available for submission to the Planning Commission at the time the applicant/appellant's application was denied: to wit, that the applicant is prepared to increase the size of the proposed second parcel to a size not less than 2.5 acres, as demonstrated in evidence presented to Council. This new information is sufficient to require reversal of the Planning Commission decision and to remand the application for further consideration by the Planning Commission. The smaller of the two lots shall be no less than 2.5 acres in size. The Planning Commission is directed to review the application for compliance with all applicable Town ordinances, standards and guidelines concerning land development.

RESOLVED:

That the appeal of the decision of the Planning Commission denying subdivision application M-06-4 is granted and the application is remanded to the Planning Commission for further review.

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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 March 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