



MEETING DATE: 02-17-09

CONSENT

5

COUNCIL AGENDA REPORT

DATE: FEBRUARY 12, 2009

TO: MAYOR AND TOWN COUNCIL

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

SUBJECT: ADOPT RESOLUTION SETTING ASIDE AND VOIDING APPROVALS OF A REQUEST TO CHANGE THE ZONE FROM R-1:8 TO R-1:8 PD AND TO DEMOLISH A SINGLE FAMILY RESIDENCE; APN: 523-25-020 AND 523-25-036; PLANNED DEVELOPMENT APPLICATION PD-05-02; ARCHITECTURE AND SITE APPLICATION S-06-050; NEGATIVE DECLARATION ND-07-07; AND RELATED SUBSIDIARY APPLICATIONS; PROPERTY LOCATION: 15881 LINDA AVENUE AND 15950 STEPHENIE LANE

RECOMMENDATION:

Adopt a resolution setting aside and voiding decisions amending the zoning ordinance effecting a zone change from R-1:8 to R-1:8:PD at 15881 Linda Avenue and a portion of 15950 Stephenie Lane, and related subsidiary approvals.

DISCUSSION:

On December 18, 2007, Council approved Architecture and Site Application S-06-050, granting approval of an application to demolish a single family residence, introduced an ordinance approving Planned Development Application PD-05-02, rezoning property from R-1:8 to R-1:8PD, and approving a planned development of land, and certified Negative Declaration ND-07-07, regarding the environmental analysis of the land development project described in the above applications. On January 22, 2008, Council adopted Ordinance No. 2157, approving Planned Development Application PD-05-02 and adopted Resolution No. 2008-007, making findings in support of the approval of the land development project described in the above applications. Thereafter several subsidiary applications related to the project, including a subdivision application, tree removal permit and demolition permit, were approved.

PREPARED BY: ORRY P. KORB, TOWN ATTORNEY

OPK:djz/wsp [N:\ATY\Reports\Report 15881 Linda Avenue.wpd]

Reviewed by: *OK* Town Manager *ES* Assistant Town Manager _____ Clerk
Finance _____ Community Development _____

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MAYOR AND TOWN COUNCIL
SUBJECT: 15881 LINDA AVENUE
February 12, 2009

On November 6, 2008, the Superior Court of Santa Clara County entered judgment in the matter of *Ross Creek Neighbors, et al. v. Town of Los Gatos, et al.*, Case No. 1-08-CV-106461, ordering the Town to set aside and void invalidation of the aforementioned project approvals. The proposed resolution responds to the order.

ENVIRONMENTAL ANALYSIS:

Action on the proposed resolution does not constitute a "project" as defined by section 15378 of the CEQA Guidelines because the voiding of land use approvals pursuant to a court order is not an action which has a potential for resulting in either a direct or reasonably foreseeable indirect physical change in the environment.

FISCAL ANALYSIS:

Action on the proposed resolution will not result in a fiscal impact.

Attachment: Proposed Resolution

RESOLUTION NO.

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS SETTING ASIDE
AND VOIDING APPROVALS OF A REQUEST TO CHANGE THE ZONE FROM R-1:8 TO R-
1:8 PD AND TO DEMOLISH A SINGLE FAMILY RESIDENCE**

APN: 523-25-020 AND 523-25-036

PLANNED DEVELOPMENT APPLICATION PD-05-02

ARCHITECTURE AND SITE APPLICATION S-06-050

NEGATIVE DECLARATION ND-07-07

PROPERTY LOCATION: 15881 LINDA AVENUE AND 15950 STEPHENIE LANE

WHEREAS:

A. This matter came before Council for public hearing on December 18, 2007, and was regularly noticed in conformance with State and Town law.

B. Approvals of applications in this matter were granted as follows:

(1) On December 18, 2007, Council approved Architecture and Site Application S-06-050, granting approval of an application to demolish a single family residence.

(2) On December 18, 2007, Council introduced an ordinance approving Planned Development Application PD-05-02, re-zoning property from R-1:8 to R-1:8PD, and approving a planned development of land.

(3) On December 18, 2007, Council certified Negative Declaration ND-07-07, regarding the environmental analysis of the land development project described in the above applications.

(4) On January 22, 2008, Council adopted Ordinance No. 2157, approving Planned Development Application PD-05-02, re-zoning property from R-1:8 to R-1:8PD, and approving a planned development of land.

(5) On January 22, 2008, Council adopted Resolution No. 2008-007, making findings in support of the approval of the land development project described in the above applications.

(6) On April 1, 2008, the Town issued a Tree Removal Permit (T08-064).

(7) On April 25, 2008, the Town approved a Lot Line Adjustment (MLD08-001).

(8) On April 28, 2008, the Town approved a building permit to demolish a single family residence (B08-0255).

(9) On June 3, 2008, the Town Development Review Committee approved Subdivision Application M-08-001 seeking approval of a subdivision of property as required by the Planned Development approved in by Ordinance No. 2157.

C. On November 6, 2008, the Superior Court of Santa Clara County entered judgment in the matter of *Ross Creek Neighbors, et al. v. Town of Los Gatos, et al.*, Case No. 1-08-CV-106461, ordering the Town to set aside and void Ordinance No. 2157, Resolution No. 2008-007 and Negative Declaration ND-07-07.

RESOLVED:

That the approval of Architecture and Site Application S-06-050, the enactment of Ordinance No. 2157 approving Planned Development Application PD-05-02, the certification of Negative Declaration ND-07-07, the adoption of Resolution No. 2008-007, the approval of Subdivision Application M08-001, the approval of Lot Line Adjustment MLD 08-001, the approval of Tree Removal Permit T08-064, and the approval of Building Permit B08-0255 are hereby declared to be set aside and voided and of no further force and effect as a consequence of the judgment of the Superior Court referred to hereinabove.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California held on the 17th day of February, 2009 , by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:
