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Agenda Date: 9/14/2010
Agenda Placement: 9F
Set Time: 11:00 AM
Estimated Report Time: 15 minutes

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Laura Anderson for Westmeyer, Robert - County Counsel
County Counsel
REPORT BY: Laura Anderson, Deputy County Counsel - 259-8252
SUBJECT: Lake Luciana Lot Line Adjustment Appeal-Findings of Fact and Decision on Appeal

RECOMMENDATION

County Counsel requests consideration and adoption of a resolution of Findings of Fact and Decision on Appeal denying the appeal filed by Ms. Carol Kunze on behalf of the Napa Sierra Club, of a decision by the Director of Public Works to approve a Lot Line Adjustment filed by Lake Luciana LLC, for the property located on Barnett Road, Pope Valley, CA 94567 (Assessor's Parcel Nos. 018-260-017, 018-290-001, 018-290-002, and 018-290-013).

ENVIRONMENTAL DETERMINATION: Approval of a lot line adjustment is a ministerial action which is exempt from CEQA (14 CCR 15268; Friends of Sierra Madre v. City of Sierra Madre (2001) 25 Cal.4th 165).

(CONTINUED FROM AUGUST 24, 2010)

EXECUTIVE SUMMARY

At the appeal hearing of August 10, 2010, the Board heard and considered evidence submitted from the Applicant, Appellant, Director of Public Works, staff, and members of the public. After considering all the evidence presented, the Board closed the public hearing and adopted a motion of intent to: (1) deny the appeal in its entirety; and (2) uphold the Director of Public Works' approval of the lot line adjustments and directed County Counsel's office to prepare a Resolution of Findings and Decision on Appeal to be considered by the Board on August 24th.

On August 24, 2010, the Board continued its final action on the resolution to its next regularly scheduled meeting on September 14, 2010 to allow interested parties more time to review the proposed Resolution. The resolution has been slightly revised since the August 20th version that was provided to the Board and public and those revisions are shown in redline tracking in the attached resolution.

PROCEDURAL REQUIREMENTS

1. Staff reports.

2. Chair invites interested parties to comment on the proposed findings.
3. Motion, second, discussion and vote on findings.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: Approval of a lot line adjustment is a ministerial action which is exempt from CEQA (14 CCR 15268; Local CEQA Guidelines, Appendix A; *Friends of Sierra Madre v. City of Sierra Madre* (2001) 25 Cal.4th 165).

BACKGROUND AND DISCUSSION

Lake Luciana LLC ("Applicant") submitted its first lot line adjustment ("LLA") application on March 23, 2007. On June 20, 2007, Lake Luciana submitted four additional LLA applications. Because these five LLAs were on file in Public Works and in the vicinity of the Lake Luciana Golf Course Project Use Permit No. P07-00398-UP (the "Golf Course Project"), the County conservatively determined that the LLAs and any resulting potential impacts should be evaluated as reasonably foreseeable pending projects in the Lake Luciana Golf Course Project EIR. In accordance with CEQA and its prohibition on piecemealing, the LLAs were not acted upon by DPW until processing of the Golf Course Project EIR was complete.

The Golf Course Project was denied by the Board of Supervisors on June 30, 2009. After its denial, the Applicant formally requested by letter dated July 8, 2009 that DPW proceed with reviewing and processing the five LLA applications because the Golf Course Project was denied and no longer pending with the County.

DPW reviewed all five applications and determined they were incomplete. On July 30, 2009, DPW sent out five incomplete notices which indicated that the Applicant had 35 days to submit the required additional application information or else all five applications would be denied by DPW pursuant to former Napa County Code Section 17.46.030(C) which called for the denial of LLA applications.

The Applicant failed to submit the requested additional information for all of the LLAs except for the Lake Luciana LLA. Therefore, on September 17, 2009, four of the LLA applications were deemed denied by DPW due to incompleteness; DPW continued the review process for the single Lake Luciana LLA application (W07-00647).

On April 27, 2010 after determining that all of the approval standards set forth in Napa County Code Section 17.46.040 were satisfied, the Director of Public Works tentatively approved the Lake Luciana LLA application. On May 11, 2010, a completed appeal package was received from Carol Kunze ("Appellant"), in accordance with the procedures set forth in Napa County Code chapter 2.88.

On August 10, 2010, at a duly noticed public hearing, the appeal was heard and considered by the Napa County Board of Supervisors ("Board"). The Board considered the testimony presented, the administrative record, oral and written evidence submitted on behalf of the Appellant and Applicant and members of the public, a written presentation submitted by the Director, and oral testimony given by staff on behalf of Public Works. Following conclusion of the public hearing on August 10, 2010, the Board adopted a motion of intent to: (1) deny the appeal in its entirety; and (2) uphold the Director of Public Works' approval of the lot line adjustments. The Board directed

County Counsel's office to prepare proposed Findings of Fact reflecting the Board's tentative decision and to present those Findings to the Board for consideration at its meeting on August 24, 2010. The proposed resolution reflects the Board's intent as expressed on August 10, 2010.

On August 24th, the Board continued its decision on the proposed resolution to its next regularly scheduled meeting on September 14th to allow interested parties more time to review the resolution. The resolution was slightly revised since the August 20th version and those revisions are shown in the attached resolution with redlined tracked changes.

SUPPORTING DOCUMENTS

- A . Lake Luciana LLA FF Resolution - (tracked)
- B . Lake Luciana LLA FF Resolution - (final)

CEO Recommendation: Approve

Reviewed By: Britt Ferguson