

STAFF REPORT
San Ramon Valley Regional Planning Commission

October 22, 2008

FILE COPY

Conservation and Development

Agenda Item # _____
Contra Costa County

SAN RAMON VALLEY REGIONAL PLANNING COMMISSION WEDNESDAY, OCTOBER 22, 2008

I. SURINDER & VINITA SINGH (Applicant / Owners), COUNTY FILE #DP08-3051 - The applicant is requesting a Final Development Plan Modification approval to permit the construction of an 11ft. tall, 300 sq.ft. existing deck built within designated open space. Subject property is located at 101 Wild Oak Ct., in the Danville area of Contra Costa County. (Zoning, P-1) (General Plan, SL & PR) (Census Tract 3551.04) (APN #'s, 203-722-014 & 203-740-012).

II. RECOMMENDATION

Staff recommends that the San Ramon Valley Regional Planning Commission deny County File #DP08-3051, based on the fact the project does not meet the intent and purpose of the P-1, Zoning District, and General Plan designation of PR, Parks and Recreation.

III. BACKGROUND

- The previous owners of the subject property purchased a landscape easement from the Blackhawk Homeowners Association and recorded it on February 2, 2000 (See Exhibit A). As described in the Grant Deed, it was intended for landscape purposes only. The Grant Deed further states "*(i)no permanent structure (including, but not by way of limitation, swimming pools, ponds, spas or tennis courts), and (ii) no grading or earthwork may be constructed, installed or maintained on any portion of the real property*".
- In 2006, the applicant submitted proposed deck plans to the Blackhawk Homeowners Association - Architectural Committee (Association), for review. According to the plans submitted to the Association, the landscape easement was not depicted on the site plan (See Exhibit B) and the proposed deck was within the property boundaries. Consequently, on July 5, 2006, the Association approved this site plan. Shortly thereafter, Mr. Singh contacted Decks Plus to construct the subject deck. According to Mr. Singh, he was unaware the County Community Development Division's approval was also necessary in addition to the Association's approval for construction of the deck.
- On January 24, 2007, the County's Property Conservation Division opened a Code Enforcement case for the construction of the subject deck's foundation without permits. In a timely manner, Mr. Singh submitted similar plans (See Exhibit C) to those given to the Association, to the County and received Community Development approval on January 24, 2007. The County approved this site plan and clearly indicated the

Y 900 3 117

minimum setback requirements for the parcel. The County also stated that survey stakes were required to certify that the structure is placed according to the approved plans.

- The Site Survey dated February 28, 2007, confirmed that the deck was built outside of the boundaries of the subject property. In addition, it was built 2'4" outside of the easement's boundaries on the southern edge and 9" on the western portion of the easement (Further encroaching the "Open Space" area). (See Exhibit D)
- On October 10, 2007, the Property Conservation Division opened another Code Enforcement case, for the construction of the subject deck built over the rear property line, and outside of the approved location.
- As an attempt to resolve this situation, on July 22, 2008, Mr. Singh submitted this Development Plan application requesting approval of the construction of the subject deck within the area designated as open space.

IV. GENERAL INFORMATION

- A. Environmental Setting: The subject site is located in the foothills of the Blackhawk County Club residential community. This area is primarily comprised of single-family residences located on medium to large sized lots. Due to the neighborhood's location in a foothill region of the County, winding roads, and restricted development areas are common in the area.
- B. Site Description: The subject property is a 18,787 sq.ft. parcel located at the northwestern corner of Wild Oak Ct. The property is relatively flat with a single 6,774 sq.ft. residence near the center of the lot; however, the property has a steep down slope on the western edge where the subject deck is located. The property has mature trees that are mainly located in the immediate area surrounding the existing home. The rear of the property is occupied by a pool and large patio area. The Association's "Open Space" is immediately adjacent to the western property line and traverses the entire length of the rear property boundary.
- C. General Plan: The General Plan designations for the site are Single-Family, Low-Density (SL) and Public Recreation (PR).
- D. Zoning: The subject site is zoned Planned Unit District (P-1).
- E. California Environmental Quality Act (CEQA): This project is exempt under CEQA guidelines section 15303(e).
- F. Previous Applications:
- DP78-3035: This Development Plan was approved by the Board of Supervisors on June 6, 1978 and approved the development of the Blackhawk County Club Community which included 985 Single

Family residences, an 18-hole golf course and clubhouse, a neighborhood commercial center, elementary and intermediate school sites, and private open space on 1154 acres, generally located northeast of the intersection of Blackhawk Road and Tassajara Road in the Danville area.

- Lot Line Adjustment (LL97-00029): This Lot Line Adjustment application was for an addition of 99 sq.ft. to the rear of the subject property and was approved by the County on November 5, 1999.
- DP98-3022: This Development Plan approved a lot line adjustment between three parcels and the adjacent "Open Space" area.

V. PROJECT DESCRIPTION

The applicant is requesting approval of a Final Development Plan Modification application for the legalization of an 11 ft. tall, 300 sq.ft. deck, constructed outside of the property boundaries at 101 Wild Oak Ct. According to the site survey dated February 28, 2007, the deck has been constructed in an area designated as open space and within the boundaries of a recorded landscape easement. The project does not require the removal of any code protected trees, nor is the project anticipated to negatively impact surrounding trees in the vicinity.

VI. AGENCY COMMENTS

- A. Contra Costa County Building Inspection Division: According to the Building Inspection Division, a building permit legally can not be issued to Mr. Singh for construction of the subject deck within the landscape easement without the written consent of the property owners (Blackhawk Homeowners Association).
- B. San Ramon Valley Fire Protection District: In letter dated September 9, 2008, the San Ramon Valley Fire Protection District advised that they have reviewed the proposed project, and have no comments.
- C. Central Contra Costa Sanitary District: No comments were received from the Central Contra Costa Sanitary District prior to the preparation of this report.
- D. East Bay Municipal Utility District: In correspondence dated August 19, 2008, the East Bay Municipal Utility District stated that the property currently has water service, and should contact the East Bay Municipal Utility's New Business Office in the event that additional water service is needed.
- E. Black Hawk Homeowner's Association : In a letter dated August 21, 2008, the Blackhawk Homeowner's Association (See Exhibit E) stated the following:

1. Prior to construction, Applicants submitted to the Association a plan to construct a deck on the referenced property.
2. As constructed, the deck failed to conform to the plan in that it was larger than depicted, located outside the boundaries of the owners' lot and was not constructed of approved materials.
3. The Association's architectural committee did not approve either the construction or location of the deck.
4. The applicants appealed this decision to the Association's Board of Directors. The Association has deferred further consideration of the deck installation appeal "pending the County's determination as to whether decks will be permitted on easements located on Association "Open Space" or "Common Space".

VII. STAFF ANALYSIS & DISCUSSION

- A. General Plan: The General Plan designation of the deck site is Public Recreation (PR) and the residential portion of the project is Single Family-Low Density (SL). The Public Recreation designation of the General Plan includes privately owned properties for which future development rights have been deeded to a public or private agency. For example, significant open space areas within planned unit developments identified as being owned and maintained by a homeowners association fall under this designation. These areas are considered "Common Areas" where the open space is maintained by the homeowners association with very strict limitations on proposed developments. Thus, the private deck would be inconsistent with development patterns in areas designated as Public Recreation. This use would be deemed appropriate in residential land designations.
- B. Zoning: The subject site is zoned Planned Unit Development (P-1), which allows a range of uses, buildings, structures, and lot sizes while ensuring compliance with the General Plan. Additionally, the guidelines of the R-20 Zoning District are used as a guide for dimensional and land use development in this area. According to County Code Section 84.66.1804, which states: "*In approving the modification application, the Zoning Administrator shall find that it is consistent with the intent and purpose of the P-1 district and compatible with other uses in the vicinity, both inside and outside of the district*". No other decks appear to have been approved or constructed in the subject "Open Space" area. As the deck is elevated and at the rear of the property, the privacy of several homes will be affected (See Photos 1-4). Therefore, the private deck structure is inconsistent with the P-1 Zoning District standards and PR General Plan designation of the site.

VIII. SUMMARY

Mr. Singh's request to modify the Final Development Plan for the Blackhawk County Club Community is an attempt to legalize the construction of an 11 ft. tall, 300 sq.ft. deck built within an area designated as "Open Space". The site is zoned Planned Unit District (P-1), and has a General Plan Designation of Public Recreation (PR) and Single Family-Low Density (SL), all of which have clear development standards that the deck does not meet. The subject landscape easement where the deck is currently constructed does not allow "permanent structures" and was intended for landscape purposes only.

The Plans submitted to the Community Development Division (See Exhibit C) clearly showed the deck setback being 15' from the rear property line. Please note that the property dimensions identified on the approved plot plan are the same shown on the Parcel Book (See Exhibit F). It appears the proposed location of the deck on the site plan submitted to the County was misrepresented.

IX. CONCLUSION

Staff recommends that the San Ramon Valley Regional Planning Commission deny County File #DP08-3051, as the project does not meet the intent and purpose of either the P-1 Zoning District or PR/SL General Plan designations in which it is located.