

**COUNTY PLANNING COMMISSION
RESOLUTION NO. 22-2009**

RESOLUTION NO. 22-2009

RESOLUTION OF THE COUNTY PLANNING COMMISSION OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, OF AN APPROVAL OF A VESTING TENTATIVE MAP TO SUBDIVIDE A 1-ACRE PARCEL INTO ONE PARCEL AND A REMAINDER. KB CONSULTING AND MANAGEMENT (APPLICANTS), MICHAEL KONRAD (OWNER), TOM & ERIN NEWLIN (APPELLANTS) (County File #MS07-00024) AT 2450 LUNADA LANE IN THE ALAMO AREA.

WHEREAS, on November 26, 2007, KB Consulting & Management submitted a Minor Subdivision application requesting approval of a vesting tentative map to subdivide a 1-acre parcel into one parcel and a remainder in the Alamo area of Contra Costa County; and

WHEREAS, after a notice having been lawfully given, a public hearing on the request for a approval of a vesting tentative map was scheduled before the County Zoning Administrator on Monday, March 9, 2009, at which time public testimony was taken from the applicant, as well as all interested parties then continued to Monday, March 23, 2009; and

WHEREAS, on Monday, March 23, 2009, the County Zoning Administrator having fully reviewed, considered and evaluated all the testimony and evidence submitted in this matter; approved the vesting tentative map request subject to conditions of approval; and

WHEREAS, on Thursday, April 2, 2009, two neighbors, the Newlins and Zarlings filed an appeal of the Zoning Administrator's approval of the subdivision request; and

WHEREAS, after a notice having been lawfully given, a public hearing on the appeal of the Zoning Administrator's approval of the Minor Subdivision request was scheduled before the County Planning Commission on Tuesday, October 13, 2009, at which time all persons interested were provided the opportunity to testify on the Minor Subdivision application; and

NOW, THEREFORE BE IT RESOLVED that the County Planning Commission:

1. Denies the appeal filed by Tom & Erin Newlin (Appellants).
2. In accordance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines and the County CEQA Guidelines (together "CEQA"), finds the proposed Negative Declaration is adequate for the project. In support of these actions and conclusions, this Commission ADOPTS the CEQA findings. This Commission adopts these findings specifically for each of the approvals and entitlements it approves or recommends for approval for the project.

This Commission certifies that it has been presented with the Initial Study and has reviewed and considered the information contained in the Initial Study and the other information in the record prior to making the following recommendations, determinations and findings. The Commission further certifies that the Initial Study reflects the lead agency's independent judgment and analysis, and that the Initial Study has been completed in compliance with the CEQA regulations.

3. SUSTAINS the Zoning Administrator's decision and APPROVES the vesting tentative map allowing for the minor subdivision, File #MS07-00024, subject to conditions of approval.

BE IT FURTHER RESOLVED, that the County Planning Commission makes the following findings with respect to ordinance provisions:

A. Growth Management Findings:

1. Traffic: The future development of the one parcel will not generate a significant amount of additional AM and PM peak hour trips. Therefore, the applicant is not required to prepare a traffic report pursuant to the 1988 Measure C requirements.
2. Water: Water service is available to the site by EBMUD. Once the property is subdivided, separate services for each lot will be required. A main extension, at the project sponsor's expense, may be required depending on EBMUD metering requirements and fire flow requirements set by the local fire department.
3. Sanitary Sewer: Sewer service will be provided by Central Sanitary District.
4. Fire Protection: The project site is within the San Ramon Valley Fire Protection District. The slight increase in demand for fire protection services would be mitigated by the tax assessment of the property.
5. Public Protection: The Growth Management Element standard is 155 square feet of Sheriff's facilities per 1,000 members of the population. The population increase associated with this subdivision is insignificant. The impact to police services is mitigated by a fee prior to issuance of the residential building permit for the one additional parcel.
6. Park & Recreation: The proposed subdivision would have a minor cumulative effect on demand for park and recreation facilities. The impact to park and recreation facilities is mitigated by a fee prior to issuance of the residential building permits for the new parcel.

7. Flood Control & Drainage: The project is subject to Division 914 of the County Ordinance Code, which requires all stormwater entering and/or originating on this property to be collected and conveyed without diversion and within an adequate storm drainage system. The nearest drainage facility is located immediately northeast of the subject site within the Iron Horse Trail Corridor. The Public Works Department has indicated that the applicant is required to verify the adequacy of this facility prior to discharging stormwater runoff.

B. Findings to Approve a Tentative Map:

1. Required Finding: The County Planning Agency shall not approve a tentative map unless it shall find that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the applicable General and specific plans required by law.

Project Finding: The land use designation is Single-Family Residential Low-Density (SL), which limits density to 1.0 to 2.9 units per net acre. The tentative map provides for two residential lots within the 1.0 acre parcel, thereby meeting the density limitation. The applicant is not proposing to rezone the project site. The proposed lots conform to all the area and dimensional requirements for the R-20 zoning district. Thus, the project is consistent with the Alamo-Diablo-Blackhawk Area policies stated in the Land Use Element of the General Plan. To be consistent with Policy #3-120 which requires that development in the Alamo area be reviewed to ensure the continued rural character of the area, future development of a residence on Parcel A shall be restricted to a height of 28 feet. The design of the proposed off-site drainage line shall minimize any adverse effect on existing trees within the Iron Horse Trail Corridor. An Initial Study has been prepared for the project, which concluded that the proposed project should not have a significant effect on the environment.

2. Required Finding: The County Planning Agency shall not approve a tentative map unless it shall find that the proposed subdivision fulfills construction requirements.

Project Finding: The proposed project only requires construction for the necessary access improvements. The Public Works Department has indicated that the applicant is required to verify the adequacy of the intended drainage facility prior to discharging stormwater runoff. It is anticipated that one new residence will be constructed as a result of this application. The applicant will be required to comply with all applicable Building Codes at the time of Building Permit issuance.

C. Criteria for Review of the Tree Permit:

1. **Required Factors for Granting Permit.** The Zoning Administrator is satisfied that the following factors as provided by County Code Section 816-6.8010 for granting a tree permit have been satisfied as marked:
- ☐ A. The arborist report indicates that the subject tree is in poor health and cannot be saved.
 - ☐ B. The tree is a public nuisance and is causing damage to public utilities or streets and sidewalks that cannot be mitigated by some other means.
 - ☐ C. The tree is in danger of falling and cannot be saved by some other means.
 - ☐ D. The tree is damaging existing private improvements on the lot such as a building foundation, walls, patios, decks, roofs, retaining walls, etc.
 - ☐ E. The tree is a species known to be highly combustible and is determined to be a fire hazard.
 - ☐ F. The proposed tree species or the form of the tree does not merit saving.
 - ☒ G. Reasonable development of the property would require the alteration or removal of the trees and this development could not be reasonably accommodated on another area of the lot.
 - ☐ H. The tree is a species known to develop weaknesses that affect the health of the tree or the safety of people and property. These species characteristics include but are not limited to short-lived, weak wooded and subject to limb breakage, shallow rooted and subject to toppling.
 - ☒ I. Where the arborist or forester report has been required, and the Director is satisfied that the issuance of a permit will not negatively affect the sustainability of the resource.
 - ☐ J. None of the above factors apply.

2. **Required Factors for Denying a Tree Permit.** The Zoning Administrator is satisfied that the following factors as provided by County Code Section 816-6.8010 for denying (or modifying) a tree permit application have been satisfied as marked:

- ☐ A. The applicant seeks permission for the alteration or removal of a healthy tree that can be avoided by reasonable redesign of the site plan prior to project approval (for non-discretionary permits).
- ☐ B. It is reasonably likely that alteration or removal of a healthy tree will cause problems with drainage, erosion control, land suitability, windscreen, visual screening, and/or privacy and said problems cannot be mitigated as part of the proposed removal of the tree.
- ☐ C. The tree to be removed is a member of a group of trees in which each tree is dependent upon the others for survival.
- ☐ D. The value of the tree to the neighborhood in terms of visual effect, wind screening, privacy and neighboring vegetation is greater than the hardship to the owner.
- ☐ E. If the permit involves trenching or grading and there are other reasonable alternatives including an alternate route, use of retaining walls, use of pier and grade beam foundations and/or relocating site improvements.
- ☐ F. Any other reasonable and relevant factors specified by the Department of Conservation and Development Director.
- ☒ G. None of the above factors apply.

BE IT FURTHER RESOLVED that the Secretary of the County Planning Commission will sign and attest the certified copy of this resolution and deliver the same to the Board of Supervisors, all in accordance with the Government Code of the State of California.

The instructions by the County Planning Commission to prepare this resolution were given by motion of the County Planning Commission on Tuesday, October 13, 2009, by the following vote:

AYES: Commissioners - Terrell, Clark, Battaglia, Gaddis, Snyder, Wong and Murray

NOES: Commissioners - None

ABSENT: Commissioners - None


ABSTAIN: Commissioners - None

Whereas, following the October 13, 2009 decision of the County Planning Commission to approve the requested Minor Subdivision application, on October 22, 2009, Tom & Erin Newlin filed an appeal of the County Planning Commission's decision to the Board of Supervisors.

Michael Murray,
Chairman of the County Planning Commission,
County of Contra Costa, State of California

I, Catherine O. Kutsuris, Secretary of the County Planning Commission, certify that the foregoing was duly called and Approved on October 13, 2009.

ATTEST:



Catherine Kutsuris, Secretary
County Planning Commission
County of Contra Costa
State of California