

1 BOARD OF SUPERVISORS, COUNTY OF LAKE, STATE OF CALIFORNIA

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3 In the Matter of the Appeal

4 of Damon Fanucchi

5 [AB 15-04]
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9 } FINDINGS OF FACT AND DECISION
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12 This proceeding was commenced by virtue of an appeal by Damon Fanucchi
13 (the "Appellant") of the Planning Commission's determination on July 23, 2015 to
14 deny the Appellant's request for approval of the Appellant's proposed tentative
15 subdivision map to allow Subdivision Project 14-01, the division of a parcel
16 approximately 0.82 gross acres in Middletown, California (hereinafter, the "Project").

17 A duly noticed public hearing on the appeal was held before this Board on
18 December 15, 2015, and on that date, evidence, both oral and documentary, was
19 presented. Based upon the evidence and applicable law, we find the following:

- 20 1. That on July 23, 2015, the Appellant requested that the Planning Commission
21 approve the Appellant's proposed tentative subdivision map to allow
22 Subdivision Project 14-01, the division of an approximately 0.82 gross acre
23 parcel located at 15385 Stonefield Court in Middletown, California into two
24 parcels. The Planning Commission denied Appellant's Project on the basis
25 that curb, gutter, and sidewalks on parcels of less than one acre should be
26 required in order to adequately protect pedestrian traffic.
- 27 2. That the Appellant is Damon Fanucchi and the Appellant has appealed the
28 above-described decision of Planning Commission, offering the following
reasons in support: (1) Precedent was set by an earlier decision of the Board
of Supervisors; (2) Precedent has been set by other neighborhoods; (3)

Neighbors do not want curb, gutter, and sidewalks; (4) Last-minute objections to the approval process is unfair; and (5) Financial hardship.

3. Staff of the Community Development Department presented evidence both documentary and testimonial. Staff submitted a staff report to the Board of Supervisors, dated November 18, 2015. That staff report included, but is not limited to, the plat map, the Appellant's appellate documents, the minutes of the Planning Commission's July 23, 2015 meeting, and the staff report to the Planning Commission for that meeting which included, but was not limited to, Initial Study IS 14-11. Testimony offered by the Community Development Department included the following:

a. Community Development Assistant Planner Mireya Turner testified that the subject of this appeal is Subdivision Project 14-01, a division of a single parcel of slightly less than one acre into two parcels, each slightly less than one-half acre. The Project is within the project area of two previous projects of the Appellant: A parcel map and subsequent subdivision. The Planning Commission denied this Project. The Planning Commission's discussion centered upon subdivision requirements for road improvements for pedestrians once parcels started to be divided into less than one acre in size. There was also discussion of a previous subdivision project of the Appellant that was denied by the Planning Commission for the same reasons relating to curb, gutter, and sidewalk. That denial was subsequently overturned by the Board of Supervisors. Since filing the appeal, the Appellant has offered as an alternative pedestrian improvement to curb, gutter, and sidewalk in the form of a four-inch wide white striping along a portion of Stonefield Court.

b. Community Development Director Richard Coel testified that the Appellant's proposal is to delineate the street section [Stonefield Court] from

1 the pedestrian section by a white stripe. The pavement width is already there.
2 Referring the Board to page 12 of the Initial Study, Mr. Coel testified that the
3 small photograph on that page shows the subject street. The proposal would
4 be to install a white stripe with some signage to delineate the trail from the
5 travelway. That would be consistent with the intent of the previous approval
6 by the Board of Supervisors of the prior subdivision. Mr. Coel testified that
7 the Appellant has undertaken development of Stonefield Court in incremental
8 projects. Had it been done all at one time, as a project proposing six to eight
9 lots, parcels under an acre would generally require wider streets in such a
10 major subdivision. In regard to the Appellant's prior subdivision project
11 where the denial of the Planning Commission was subsequently overturned by
12 the Board of Supervisors, in the prior case there was support for equestrian-
13 friendly development in Middletown and sidewalks are not conducive to that.
14 Ultimately what the Board approved was a parcel size closer to an acre. For
15 this Project, the parcel size is under half an acre. The minimum lot size to
16 have a horse is 40,000 square feet for parcels such as this one located in R-1
17 Zoning. These lots are too small for that. The Board of Supervisors approved
18 the Appellant's prior subdivision and did not require curb, gutter, and sidewalk
19 so to allow for horses because of the equestrian interest in that area. For this
20 Project, the parcels cannot support horses. Additionally, this area has the
21 potential to be further resubdivided. Looking at ultimate build-out, there is a
22 potential for the subject street to have twelve to sixteen lots total. The
23 distance from the Project location to downtown Middletown is walkable. It is
24 more likely to see a maximum build-out on the edge of town with parcel sizes
25 from one-quarter to one-half acre. Mr. Coel testified that the question before
26 this Board is whether the alternative design to curb, gutter, and sidewalk
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proposed by the Appellant is adequate and appropriate for this location.

4. Appellant presented testimonial and documentary evidence in support of the appeal. The Appellant submitted an Appeal to the Board of Supervisors with an attached three-page statement outlining the background concerning the Project, his request for approval of the Project as recommended by staff in its report to the Planning Commission, and explaining his reasons for requesting that approval.

- a. The Appellant testified that this appeal is essentially about not wanting to have curb, gutter, and sidewalk. Over the last fifteen years, he has built five homes in Middletown. On this street [Stonefield Court], there was a possibility of splitting it into sixteen parcels which would have been very dense. The Appellant testified that he realized that he was asking for a bit of a concession from the normal guidelines, but noted that the neighborhood he has created is very nice. The Appellant testified that he had shown he contributes to the Lake County economy and he wishes to continue to do so. If he is not allowed to go forward with this Project without curb, gutter, and sidewalk, there will not be another lot built upon in that area. No other property owners will want to build.

5. Members of the public testified as follows:

- a. Vira Galvin testified that she and her husband own two properties in close proximity to the street where Appellant's proposed Project is located. Her son's property backs up to that street. Her concern is that the other houses the Appellant has built are nice, but they are rented out as grow houses and the smell of the marijuana is atrocious. That is not fair to the people in the area who are raising families.

- b. Greg Scott testified that he was very familiar with the community of Norco

1 which thrives on equestrian activities. There are horse trails throughout that
2 community. That community also has curbs, gutters, and sidewalks
3 throughout the city and that extends to some county areas.

4 6. That this Board finds, based on the evidence and facts presented in this matter
5 as follows:

- 6 a. That the size of the parcels, the location of the proposed Project in
7 relation to the downtown Middletown area, and the potential ultimate
8 build-out of Stonefield Court necessitate the requirement of curb,
9 gutter, and sidewalk for this proposed Project. As this area of Lake
10 County continues to develop, such a requirement becomes increasingly
11 important to protect pedestrian traffic.
- 12 b. The Appellant has not presented sufficient evidence to justify the
13 acceptance of his alternative proposal to the requirement of curb, gutter,
14 and sidewalk or in support of his appeal.
- 15 c. That this Board has considered and incorporates by reference the
16 Community Development staff memoranda and attachments thereto
17 submitted to this Board for the hearing as previously described herein,
18 as well as the documentary evidence submitted by the Appellant as
19 previously described herein.

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7. Based upon all the foregoing and for the reasons set forth hereinabove, this Board denies the appeal of the Appellant Damon Fanucchi.

NOTICE TO APPELLANT: You are hereby given notice that the time within which any judicial review of the decision herein may be sought is governed by the provisions of the Code of Civil Procedure Section 1094.5.

Dated: January 26, 2016

Rob Brown
CHAIR, Board of Supervisors

ATTEST: MATT PERRY
Clerk to the Board
of Supervisors

APPROVED AS TO FORM:

By: [Signature]
Deputy

[Signature]
ANITA L. GRANT
County Counsel

