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AGENDA ITEM

JUN 19 2007

MEMORANDUM

COUNTY OF LAKE

COUNTY COUNSEL

TO: THE HONORABLE BOARD OF SUPERVISORS

FROM: ANITA L. GRANT
County Counsel *AG*

SUBJECT: Proposed Findings of Fact in the Appeal of Damon Fanucchi
(AB 07-03) - Item A-10 on the May 8, 2007 Agenda

DATE: June 6, 2007

Pursuant to your Board's statement of Intended Decision in the above matter on May 8, 2007, I have prepared the attached Findings of Fact to support your Board's intended decision.

If the Findings of Fact are acceptable to you, I would recommend that you take the following two actions:

- SK*
1. Move to approve the Findings of Fact and authorize the Chair to Sign; and
 2. Move to grant the appeal in part to allow as an alternative to the road improvement requirements of curb, gutter, and sidewalks, another means of pedestrian access subject to the approval of the Community Development and Public Works Departments.
- ER*

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mail cert. copy by cert. mail to:
Damon Fanucchi

CERT ~~444~~ 7004-1160-0001-7393-1906

ER
Sayer

Attachment 11

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

2
3 In the Matter of the Appeal)
4 of DAMON FANUCCHI)
5 [AB 07-03])

FINDINGS OF FACT AND DECISION

6
7 This proceeding was commenced by virtue of an appeal by Damon Fanucchi (the
8 “Appellant”) of a subdivision map condition approved by the Planning Commission requiring
9 curb, gutter, and sidewalks.

10 Pursuant to the Subdivision Map Act (Gov. Code Secs. 66410, et seq.) a developer may
11 create up to four lots through the parcel map, or minor subdivision, process. If, as in the case of
12 the present application, the developer creates five or more contiguous lots, the application must
13 be processed as a major subdivision.

14 Lake County Subdivision Ordinance Section 17-26 requires road improvements
15 consistent with Road Design and Construction standards as a condition with subdivision map
16 approval.

17 The Planning Commission approved a subdivision map at a hearing held on January 25,
18 2007; as a condition of that approval, curb, gutter, and sidewalks were required.

19 A duly noticed public hearing on the appeal was held before this Board on March 27, but
20 continued to April 10 at the request of the Appellant. On April 17, 2007, this matter was heard
21 and further continued by order of this Board to May 8, 2007 to allow the Appellant and staff to
22 attempt to reach a compromise to the condition complained of which would nonetheless address
23 the issue of pedestrian access. On April 10, 2007, April 17, 2007 and May 8, 2007, evidence,
24 both oral and documentary, was presented. Based upon the evidence and applicable law, we find
25 the following:

- 26 1. That the Lake County Planning Commission approved the Appellant’s subdivision map at
27 a hearing held on January 25, 2007, subject to the condition that curb, gutter and sidewalk
28

improvements be installed in order to ensure orderly development for pedestrian and traffic safety.

2. That the Appellant has requested that the above-described condition be eliminated because the requirement would negatively affect the character of the neighborhood and because the important issues of parking and drainage can be addressed sufficiently by an alternative pedestrian improvement.

3. That the Appellant testified that he was amenable to finding an alternative to curb, gutter, and sidewalks which would be acceptable to both the Community Development Department and the Department of Public Works.

4. That engineer Scott De Leon testified on behalf of the Appellant that he would recommend an alternative that to curb, gutter, and sidewalks which included a twelve-foot shoulder and four-foot pedestrian pathway. Mr. De Leon testified that this alternative would reduce urbanization of the road and make drainage easier to deal with. Mr. De Leon testified that curb, gutter, and sidewalks would be constructed if that was what was required, but while the alternative the Appellant proposed would be a departure from typical County standards, this proposal would address parking, pedestrian access, and drainage.

5. That the staff of the Community Development Department recommended that this Board grant the appeal in part to allow either curb, gutter, and sidewalks or an alternative for pedestrian access in substantial compliance with County Road Standard 224 and subject to the approval of the Department of Public Works and the Community Development Department.

6. That Gerry Shaul, Director of the Department of Public Works provided information that there was flexibility in the County road standards since "one size does not fit all", which allows a number of factors to be considered.

7. That members of the public testified as follows:

a. Robert Stark testified that he disagreed with any change from the requirement of curb, gutter, and sidewalks and that drainage issues could be mitigated in a number of different

ways. The urbanization concern raised during the hearing was just "a red herring".

8. That this Board finds, based on the evidence and facts in this matter that as to this project:


- a. The street width currently in existence precludes standard widths for curb, gutter, and sidewalks; and
- b. The drainage situation is such that putting in curb, gutter, and sidewalks could prevent natural run-off, channeling the water off-site and creating issues on other properties that do not presently exist.
- c. That given the above, the appeal should be granted in part to allow the Appellant a pedestrian access alternative to the curb, gutter, and sidewalks condition imposed.

9. That this Board has considered and incorporates by reference the Community Development staff memoranda and attachments thereto submitted to this Board for the hearings on March 27, April 10, April 17, and May 8, 2007.

Based upon all the foregoing and for the reasons set forth hereinabove, this Board grants the appeal in part to allow an alternative to the curb, gutter, sidewalks requirement for pedestrian access if said alternative is acceptable to the Community Development Department and the Public Works Department.

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: 06-19-2007



CHAIR, Board of Supervisors




ATTEST: KELLY F. COX
Clerk to the Board
of Supervisors

APPROVED AS TO FORM:

By:


Deputy


ANITA L. GRANT
County Counsel