

**County of Placer
Planning Department**

BOARD SUBMITTAL COVER SHEET

TO: Honorable Board of Supervisors

FROM: Michael J. Johnson, Planning Director

DATE: July 28, 2006

SUBJECT: Appeal of Planning Commission Decision to Approve a Tentative Subdivision Map with Modified Condition - "Maggi Country Estates" (PSUBT20060221)
Appellant: Dr. Janis Cox Jones

SUMMARY:

At its May 11, 2006 meeting, the Planning Commission approved the Tentative Subdivision Map for the Maggi Country Estates project for the development of a 17-lot, residential subdivision on a 46-acre site located in the Loomis Basin area. On May 22, 2006, Dr. Janis Cox Jones submitted a letter appealing the project as conditioned by the Planning Commission. Specifically, the appellant appealed the approval of Condition 80 related to allowing the raising and keeping of livestock within the subdivision. This condition was modified by the Planning Commission to indicate that livestock may (rather than shall) be allowed within the subdivision (as an advisory comment).

CEQA COMPLIANCE:

A Mitigated Negative Declaration has been prepared for this project in compliance with CEQA. With the incorporation of all mitigation measures, all identified impacts will be reduced to less than significant levels.

FISCAL IMPACT: None.

RECOMMENDATION:

Based upon the agreement reached between the appellant and the applicant, staff recommends the Board of Supervisors grant the appeal and approve the Maggi Country Estates residential subdivision (PSUBT 2006 0221), based upon the modification to Condition 80 as described in this report.

MEMORANDUM
County of Placer
Planning Department

TO: Honorable Board of Supervisors
FROM: Michael J. Johnson, Planning Director
DATE: July 28, 2006
SUBJECT: **Appeal of Planning Commission Decision to Approve the Tentative Subdivision Map with Modified Condition - "Maggi Country Estates" (PSUBT20060221)**
Appellant: Dr. Janis Cox Jones

BACKGROUND:

The Maggi Country Estates site (APN 037-101-051) consists of a 46-acre parcel located on the west side of Auburn-Folsom Road, north of Horseshoe Bar Road, in the Loomis area. The subject property is zoned RA-B-100 (Residential Agricultural District with a 2.3-acre minimum lot size) and is designated Rural Residential (2.3 – 4.6 acre minimum) in the Horseshoe Bar / Penryn Community Plan.

On May 11, 2006, after much discussion, the Planning Commission unanimously adopted a motion to approve the Tentative Subdivision Map for Maggi Country Estates to create a 17-lot subdivision. The discussion at the Planning Commission centered on Condition 80 and issues regarding Section 17.56.050 of the Planning and Zoning Ordinance (Animal Raising and Keeping).

As originally written, the condition read: "As provided for in Section 17.56.050 of the Placer County Code, animal raising and keeping, including livestock and cattle, shall be permitted on each residential lot within the subdivision". Some of the Commissioners were concerned that this condition was being applied as a County mandate and that the condition required the applicant to allow animals without the ability to further restrict animal raising and keeping through CC&Rs. Other Commissioners believed that the condition is needed to be consistent with the local Community Plan and the Rural Residential General Plan land use designation. A motion to eliminate Condition 80 failed. A subsequent motion to revise Condition 80 to be an "Advisory Comment" and to indicate that livestock may be allowed passed unanimously.

Letter of Appeal

On May 22, 2006, Dr. Janis Cox Jones submitted a letter appealing the Planning Commission approval of Condition 80 of the Maggi Country Estates project as an "advisory comment". As stated by the appellant, the basis for the appeal is "removal of Condition 80; trees; inconsistency with neighboring parcels in immediate vicinity; inconsistent now with goals and policies of General Plan and Community Plan; inconsistent with the right to farm ordinance; and negative environmental/wildlife impacts.

A telephone conversation with the appellant revealed that she thought that Condition 80 had been eliminated. Upon hearing that it was labeled as an Advisory Comment with wording that livestock may, rather than shall, be allowed, she continued to be opposed to this change. Her opposition is due

to concerns that the property owner could adopt CC&R's that prohibit the keeping of horses, and this is of particular concern to the appellant. It is the appellant's opinion that the subdivision, without allowance for livestock, particularly horses, would be inconsistent with the Community Plan and the County's "Right to Farm" ordinance. Her concern about trees relates to potential removal of orchard trees. The appellant also expressed concerns that wildlife will be displaced by the subdivision.

ANALYSIS OF APPEAL:

Advisory Comment 80

The Planning Commission modified Condition 80 to be an Advisory Comment with revised wording. The new wording is as follows: "As provided for in Section 17.56.050 of the Placer County Code, animal raising and keeping, including livestock and cattle, may be permitted on each residential lot within the subdivision."

The ability to raise livestock, particularly horses, remains a significant concern to the Loomis Basin Horseman's Association. According to the Association, the ability for property owners to retain the ability to maintain livestock and cattle in a manner consistent with the Placer County Code is vital to retaining the rural characteristics of the Loomis Basin area. At the same time, as was expressed by several Planning Commissioners, the issue of whether or not to allow cattle and livestock is a property rights issue, and each individual development should be able to decide whether or not the keeping of cattle and livestock is consistent with the desires for each particular development.

Subsequent to the filing of the appeal, the appellant has been meeting with the applicant to reach an agreement regarding this disposition of Condition 80. Based upon these meetings, it is staff's understanding that the two parties have reached an agreement regarding the wording for Condition 80. Based upon this agreement, staff recommends Condition 80 be reworded as follows:

- 80. No prohibition shall be allowed to be included as part of any condition, covenant, and/or restriction recorded against any lot within the Maggi Country Estates subdivision which would prohibit the keeping of up to one horse per acre, based upon the gross size of the lot, as provided by Section 17.56.050(F)(9) of the Placer County Code.

With the revised language, each of the parties is satisfied that the rural character of the Loomis Basin area can be retained.

Trees

The County Tree Preservation Ordinance only addresses protection of native trees, and the project has been appropriately conditioned to required replacement for any native trees that are removed. The County does not limit the cutting of orchard trees; the applicant has indicated that removal of trees will be only for construction of the access road and driveways.

Wildlife

Although some wildlife habitat may be displaced with the establishment of this subdivision, no significant impacts were identified in the environmental analysis prepared for this project.

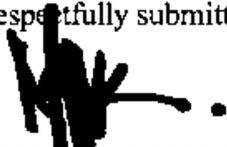
CEQA COMPLIANCE:

A Mitigated Negative Declaration has been prepared for this project in compliance with the California Environmental Quality Act. With the incorporation of all mitigation measures, all identified impacts will be reduced to less than significant levels.

RECOMMENDATION:

Based upon the agreement reached between the appellant and the applicant, staff recommends the Board of Supervisors grant the appeal and approve the Maggi Country Estates residential subdivision (PSUBT 2006 0221), based upon findings and subject to the Conditions of Approval included in this report, including the modification to Condition 80 as set forth above.

Respectfully submitted,



MICHAEL J. JOHNSON, AICP
Planning Director

EXHIBITS:

- Exhibit A - Letter of Appeal
- Exhibit B - Vicinity / Location Map
- Exhibit C - Proposed Tentative Map (Reduced)
- Exhibit D - Mitigated Negative Declaration
- Exhibit E - Conditions of Approval
- Exhibit F - Staff Report of May 11, 2006
- Exhibit G - Section 17.56.050 Animal Raising & Keeping

cc: Dr. Janis Cox Jones (Appellant)

COPIES SENT BY PLANNING:

- Mike Foster - Engineering & Surveying Department
- Grant Miller - Environmental Health Services
- Yushuo Chang - Air Pollution Control District
- Vance Kimbrell - Parks Department
- Scott Finley - County Counsel
- Allison Carlos - CEO's Office
- John Marin - CDRA
- Michael J. Johnson - Planning Director
- Subject/chrono files

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