



COUNTY OF PLACER
Community Development/Resource Agency

PLANNING
SERVICES DIVISION

Michael J. Johnson, AICP
Agency Director

EJ Ivaldi, Deputy Director

MEMORANDUM

TO: Honorable Board of Supervisors

FROM: Michael J. Johnson, AICP
Agency Director

By: Melanie Jackson, Associate Planner

DATE: March 11, 2014

SUBJECT: BELCARA SUBDIVISION – THIRD-PARTY APPEAL – REQUEST TO CONTINUE APPEALS PUBLIC HEARING TO AN OPEN DATE

ACTION REQUESTED

1. Continue the appeal public hearing to an open future date as requested by the property owner, Jeff Dutra; and as requested by Community Development Resource Agency staff; and as concurred to by the appellant, Friends of the North Fork.

PROJECT DESCRIPTION

The Belcara Subdivision/Conditional Use Permit project is a proposed 39-lot Planned Residential Development (PD) on a 169.2-acre site on the Foresthill Divide. The residential lots range in size between 0.83 acres to 6.3 acres and the subdivision includes three open space lots totaling 93.21 acres. The project is located on the north side of Foresthill Road, west of, and adjacent to, the Monte Verde Subdivision on the Foresthill Divide.

BACKGROUND

The Planning Commission conducted a public hearing on the proposed project on December 12, 2013. At the close of the public hearing, the Planning Commission unanimously took action to adopt the Mitigated Negative Declaration (Modified) and Mitigation Monitoring Program, and to approve the 39-lot Tentative Subdivision Map and Conditional Use Permit (Planned Residential Development), subject to the findings and the Conditions of Approval, with a minor change to Condition #77 to require additional fuel breaks around the subdivision.

APPEAL

On December 23, 2013, Friends of the North Fork submitted a 344-page Appeal to the Planning Services Division challenging the action by the Planning Commission to approve the Belcara Subdivision/Conditional Use Permit project and its adoption of the Mitigated Negative Declaration (Modified). On January 22, 2014, Friends of the North Fork and its attorney, Shute Mihaly Weinberger LLP submitted an additional 1,642 pages of supplemental information in support of North Fork's appeal. The property owner, Jeff Dutra, has submitted a written request to continue the appeals public hearing to an open date to allow the applicant time to retain and consult with appropriate legal counsel and to consider options regarding the project. Staff is separately requesting to continue the appeal public hearing to an open date to allow staff adequate time to review and respond to the nearly 2,000-page appeal.

Section 17.60.110(D)(4)(c)(Processing of Appeals; Action and Findings; Time Limits on Appeals) provides that the hearing body shall commence a public hearing on the appeal within 90 days of its proper filing. The March 11, 2014 Board hearing is the last hearing date before the 90-day period expires. This same section authorizes the Board, as the appeal body, to commence said public hearing within "such other time period as may be mutually agreed upon by the appellant, in writing, and the appeal body, in writing." On March 2, 2014, staff received correspondence from the appellant concurring with the request for continuance.

ATTACHMENTS:

- Attachment 1: Property Owner's Request for a Continuance
- Attachment 2: Appellant Concurrence with Request for a Continuance

cc: Jack Remington on behalf of Andregg Geomatics – Applicant
Jeff Dutra – Property Owner
Friends of the North Fork - Appellant
Phil Frantz – Engineering and Surveying Division
Justin Hansen – Environmental Health Services
Gerry Haas – Air Pollution Control District
Andy Fisher – Placer County Parks Division
Karin Schwab – County Counsel's Office
Michael Johnson – CDRA Director
EJ Ivaldi – Deputy Planning Director
Shute Mihaly Weinberger LLP

-----Original Message-----

From: Jeff Dutra [mailto:jeff.dutra]
Sent: Tuesday, February 18, 2014 12:01 PM
To: Melanie Jackson
Cc: George Rosasco; Jack Remington
Subject: Belcara

Hi Melanie,

Please let this serve as my request for a formal continuance of the March 11, 2014 Belcara hearing before the Board of Supervisors, and to request an open date.

We need time to retain and consult with proper legal counsel and to look at our options regarding the project.

We appreciate the County's help in obtaining this postponement.

Best regards,
Jeff Dutra

ATTACHMENT 1

From: Michael Garabedian [<mailto:michaelgarabedian>]
Sent: Sunday, March 02, 2014 2:52 PM
To: George Rosasco
Cc: jeff.dutra; mloluca; tamara galanter; Heather M. Minner
Subject: March 11, 2014 Belcara appeal continuance

Hi George,

I'm glad to hear through our lawyers that the owner understands that the MND is deficient and that the Project cannot be approved based on it. In this instance, the appropriate action would be for the owner to withdraw his project application and I would appreciate it if the County would tell him to do so.

Belcara's owner initiated contacted with us and we agree with his request to continue the hearing and the owner agrees to first take Friends on a tour of the property. Friends would like to meet the owner again after the tour.

I have no objection to a County-owner-appellant agreement to continue the March 11, 2014 hearing date to an open date, provided Friend's is given one month notice of any new hearing date and which date has been established after checking appellant and applicant availability including taking vacation plans into account. I do want to make sure, however, that the Planning Commission's approval is not "deemed approved" under County Code section 17.60.110(4)(c). Accordingly, please understand that as the appellant, I am agreeing to an alternative hearing date of an open date, not less than 30 days after notice of any new hearing date is given to Friends of the North Fork, and request that the appeal body also so agree in writing. I believe this means that the BOS would need to approve such a continuance at its March 11th meeting. As I count, the 90 day period expires March 23rd. So there should also be a provision to ensure that the PC decision is not deemed approved if the BOS does not continue the hearing. Perhaps you could confer with county counsel and provide me with a draft resolution that I could share with Friends' lawyers?

A tour and meeting are expected to take place on weekday time starting during the last 10 days of March through April. The owner indicated he could keep his ability to go forward with the project in May. If the project is not withdrawn or set for a hearing on 30-days notice, we request that the Board of Supervisors schedule the appeal on a May 2014 Board of Supervisors agenda for an update or appropriate action.

Sincerely,

Michael Garabedian, President
Friends of the North Fork
916-719-7296

ATTACHMENT 2