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NOV 18 2022

Town of Los Gatos Planning Department.

Regarding application S-21-021

TOWN OF LOS GATOS 11-18-2022
PLANNING DIVISION

17121 Crescent Dr. Los Gatos CA

Attn: Senior Planning Staff

Joel & Sean,

Your insertion of item #116 into the conditions of approval has caught us off guard and goes against the process of approval previously stated. We are currently working to better understand its impact on our application. It is clear that the Los Gatos Planning Department is uncertain how to perform its role as the ultimate authority in determining exactly how the process for exemption from the provisions that restrict development noted in PRC 4290 are handled.

Under:

Title 14 of the California Code of Regulations (14 CCR), Division 1.5, Chapter 7, Subchapter 2, Articles 1-5, "DRAFT State Minimum Fire Safe Regulations, 2021" See section 1270.05

The regulation clearly states that the course of due process terminates at planning commission meeting currently scheduled this coming Monday the 21st. However, a 10 day appeals period would still be available.

The argument used to define that enforcement of this regulation is not "constitutionally defensible" has been established by the town attorney.

Item #116 implies that the process for appeals be repeated. We have well documented this process has already taken place, and our attempt to find a satisfactory agreement that is "constitutionally defensible" with the SCCF has bourn no fruit. This can be verified through the comments response letters from the SCCFD.

Now that #116 has been added into our conditions of approval we require one of the following actions be taken by the town of Los Gatos Planning Department prior to the meeting scheduled this Monday the 21st. :

1. Remove item 116 from our applications conditions of approval. This is to be accompanied by a notice to the planning commission and to us stating that 116 has been stricken and that the course of due process has been satisfied as defined under section 1270.05.
2. Add a fourth exception request to our packet with the following statement: "The applicant request and exception from line item #116 noted in the proposed conditions of approval on the grounds that the appeals process noted within Title 14 of the California Code of Regulations (14 CCR), Division 1.5, Chapter 7, Subchapter 2, Articles 1-5, "DRAFT State Minimum Fire Safe Regulations, 2021" has already been satisfied."

3. Clearly state and define why the process of appeals must be repeated and how an appeals process of item #116 follows due process. This will need to be accompanied by town code verifying its enforcement, the process by which it was developed and the date it went into effect.

4. If there is a legal finding that shows the process of appeal must be repeated, and once again agreement between Santa Clara County Fire and Eric and Lee Ann Wade on what is constitutionally defensible cannot be reached, what is the path forward through due process.

5. Leave item 116 as is.

If items 3-5 are selected, we will be filing an appeal during the 10 day appeals window following Monday's meeting.

Please let us know how you wish to proceed.

Sincerely,

Eric Wade

Wade Construction

408-314-2755