

PLANNING COMMISSION – July 26, 2023
CONDITIONS OF APPROVAL

200 Happy Acres Road
Subdivision Application M-21-006

Requesting Approval for Modification to an Existing Subdivision Application (PRJ-97-117) on Property Zoned HR-2½. APN 537-24-030. Located at 200 Happy Acres Road. APN 537-24-030. Categorically Exempt Pursuant to CEQA Guidelines Section 15315: Minor Land Divisions and Section 15061(b)(3): Common Sense Exemption. Subdivision Application M-21-006.

PROPERTY OWNER: Fred and Fereshten Toofan
APPLICANT: Noel Cross
PROJECT PLANNER: Jocelyn Shoopman

TO THE SATISFACTION OF THE COMMUNITY DEVELOPMENT DIRECTOR:

Planning Division

1. **APPROVAL:** This application shall be completed in accordance with all of the conditions of approval and in substantial compliance with the approved plans. Any changes or modifications to the approved plans and/or business operation shall be approved by the Community Development Director, DRC or the Planning Commission depending on the scope of the changes.
2. **EXPIRATION:** The approval will expire two years from the approval date pursuant to Section 29.20.320 of the Town Code, unless the approval has been vested.
3. **TOWN INDEMNITY:** Applicants are notified that Town Code Section 1.10.115 requires that any applicant who receives a permit or entitlement (“the Project”) from the Town shall defend (with counsel approved by Town), indemnify, and hold harmless the Town, its agents, officers, and employees from and against any claim, action, or proceeding (including without limitation any appeal or petition for review thereof) against the Town or its agents, officers or employees related to an approval of the Project, including without limitation any related application, permit, certification, condition, environmental determination, other approval, compliance or failure to comply with applicable laws and regulations, and/or processing methods (“Challenge”). Town may (but is not obligated to) defend such Challenge as Town, in its sole discretion, determines appropriate, all at applicant’s sole cost and expense.

Applicant shall bear any and all losses, damages, injuries, liabilities, costs and expenses (including, without limitation, staff time and in-house attorney’s fees on a fully-loaded basis, attorney’s fees for outside legal counsel, expert witness fees, court costs, and other litigation expenses) arising out of or related to any Challenge (“Costs”), whether

incurred by Applicant, Town, or awarded to any third party, and shall pay to the Town upon demand any Costs incurred by the Town. No modification of the Project, any application, permit certification, condition, environmental determination, other approval, change in applicable laws and regulations, or change in such Challenge as Town, in its sole discretion, determines appropriate, all the applicant's sole cost and expense. No modification of the Project, any application, permit certification, condition, environmental determination, other approval, change in applicable laws and regulations, or change in processing methods shall alter the applicant's indemnity obligation.

4. COMPLIANCE MEMORANDUM: A memorandum shall be prepared and submitted with the building plans detailing how the Conditions of Approval will be addressed.

TO THE SATISFACTION OF THE DIRECTOR OF PARKS & PUBLIC WORKS:

Engineering Division

5. GENERAL. All public improvements shall be made according to the latest adopted Town Standard Drawings and the Town Standard Specifications. All work shall conform to the applicable Town ordinances. The adjacent public right-of-way shall be kept clear of all job-related dirt and debris at the end of the day. Dirt and debris shall not be washed into storm drainage facilities. The storing of goods and materials on the sidewalk and/or the street will not be allowed unless a special permit is issued. The developer's representative in charge shall be at the job site during all working hours. Failure to maintain the public right-of-way according to this condition may result in the Town performing the required maintenance at the developer's expense.
6. DEDICATIONS. The following shall be dedicated on the parcel map. The dedication shall be recorded before any permits are issued.
 - a. Ingress-egress, storm drainage and sanitary sewer easements, as required.
7. PUBLIC IMPROVEMENTS. The following improvements shall be installed by the developer. Plans for those improvements shall be prepared by a California registered civil engineer, reviewed, and approved by the Town, and guaranteed by contract, Faithful Performance Security and Labor & Materials Security before the issuance of a building permit or the recordation of a map. The improvements must be completed and accepted by the Town before a Certificate of Occupancy for any new building can be issued.
 - a. Happy Acres Road. A 42-foot radius cul-de-sac or Fire approved truck turnaround.
8. ENCROACHMENT PERMIT. All work in the public right-of-way will require a Construction Encroachment Permit. All work over \$5,000 will require construction security.
9. SURVEYING CONTROLS. Horizontal and vertical controls shall be set and certified by a licensed surveyor or registered civil engineer qualified to practice land surveying, for the following items:
 - a. Retaining wall—top of wall elevations and locations;
 - b. Toe and top of cut and fill slopes; and
 - c. Top of curb.
10. UTILITIES. The developer shall install all utility services, including telephone, electric

power and all other communications lines underground, as required by Town Code §27.50.015(b). Cable television capability shall be provided to all new lots.

11. RESTORATION OF PUBLIC IMPROVEMENTS. The developer shall repair or replace all existing improvements not designated for removal that are damaged or removed because of developer's operations. Improvements such as, but not limited to: curbs, gutters, sidewalks, driveways, signs, pavements, raised pavement markers, thermoplastic pavement markings, etc. shall be repaired and replaced to a condition equal to or better than the original condition. Existing improvement to be repaired or replaced shall be at the direction of the Engineering Construction Inspector and shall comply with all Title 24 Disabled Access provisions. Developer shall request a walk-through with the Engineering Construction Inspector before the start of construction to verify existing conditions.

TO THE SATISFACTION OF THE SANTA CLARA COUNTY FIRE DEPARTMENT:

12. Review of this Developmental proposal is limited to acceptability of site access, water supply and may include specific additional requirements as they pertain to fire department operations and shall not be construed as a substitute for formal plan review to determine compliance with adopted model codes. Prior to performing any work, the applicant shall make application to, and receive from, the Building Department all applicable construction permits.
13. NOTE: The subject lot is located within the Very High Fire Hazard Severity Zone (VHFHSZ) of the Local Responsibility Area (LRA). Pursuant to California Public Resources Code (PRC) 4290, the California Board of Forestry and Fire Protection is required to "...adopt regulations implementing minimum fire safety standards related to defensible space" applicable to "the perimeters and access to all residential, commercial, and industrial building construction." In 2018, the Legislature passed and the Governor signed SB 901 (Dodd), which expanded the applicability of the regulations promulgated under PRC 4290 to land in the Local Responsibility Area (LRA) Very High Fire Hazard Severity Zone. All comments below that result from PRC 4290 are identified by **. Where a conflict exists between local & 4290 requirements, the more stringent requirement shall apply.
14. PRIVATE ROAD: The private road that starts at the terminus of the public road shall not have installed at any time a gate or other obstruction across the road that could impede or delay timely response by emergency service personnel.
15. IMPROVEMENT: At time of private roadway improvement, a sign shall be installed at the start of the private road indicating "Fire Department Turnaround Ahead" or other similar language to be approved by the Fire Code Authority prior to installation.
16. DEVELOPMENT APPLICATION: At time of architectural/site development application, compliance with the State Fire Safe Regulations (14 California Code of Regulations §1270), in effect at time of application, shall be clearly demonstrated. Any request for exception shall be processed prior to approval of the site development application.
17. SITE DEVELOPMENT: Prior to issuance of building permits for site development, provide evidence of recording for the proposed emergency vehicle access easement that includes the fire apparatus turnaround.

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