



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 07/10/2019

ITEM NO: 5

DATE: July 1, 2019
 TO: Planning Commission
 FROM: Joel Paulson, Community Development Director
 SUBJECT: Subdivision Application M-19-004. Project Location: **16100 Greenridge Terrance**. Appellant: David Weisman. Property Owner: Emerald Lake Investments, LLC. Applicant: Hanna & Brunetti. Project Planner: Sean Mullin
 Consider an appeal of a Development Review Committee decision approving a request for subdivision of one lot into eight lots on property zoned HR-2½:PD. APN 528-12-002.

RECOMMENDATION:

Deny the appeal and uphold the decision of the Development Review Committee (DRC) to approve the Subdivision Application, subject to the recommended conditions of approval.

PROJECT DATA:

General Plan Designation: Hillside Residential
 Zoning Designation: Hillside Residential: Planned Development, HR-2½:PD
 Applicable Plans & Standards: General Plan; Hillside Development Standards and Guidelines; Hillside Specific Plan
 Parcel Size: 36 acres

Surrounding Area:	Existing Land Use	General Plan	Zoning
North	Single-Family Residential	Hillside Residential	HR-1
East	Single-Family Residential	Agriculture	RC
South	Single-Family Residential	Hillside Residential	HR-2½:PD
West	Single-Family Residential	Hillside Residential	HR-2½:PD

PREPARED BY: Sean Mullin, AICP
 Associate Planner

Reviewed by: Planning Manager and Community Development Director

PAGE 2 OF 6

SUBJECT: 16100 Greenridge Terrace/M-19-004

DATE: July 1, 2019

CEQA:

A Final Environmental Impact Report (EIR) and Mitigation Monitoring and Reporting Program were adopted by the Town Council (Ordinance 2281) for the proposed development and no significant unmitigated impacts are associated with the application (Exhibit 4).

FINDINGS:

- As required by Section 66474 of the State Subdivision Map Act.

STANDARDS FOR REVIEW:

- As required by Planned Development Ordinance 2281, that the tentative map complies with the performance standards contained in Ordinance 2281 and is in substantial conformance with the Official Development Plans contained therein as described in the application materials (Exhibit 4).

ACTION:

The decision of the Planning Commission is final unless appealed within ten (10) days.

BACKGROUND:

The subject 36-acre property is currently vacant with an existing graded road and a San Jose Water Company storage tank located on the southern portion of the property. The subject site takes access from Santella Drive and Greenridge Terrace (Exhibit 1).

On March 13, 2019, the Planning Commission considered a Planned Development (PD) Application and forwarded a recommendation for approval to the Town Council. The Town Council considered the Application on April 2, 2019, and introduced an Ordinance approving the project. On April 16, 2019, the Town Council adopted Ordinance 2281 approving the Planned Development Overlay and allowing for the subdivision of the subject property into eight lots (Exhibit 4).

A Subdivision Application (M-19-004) for the subject property was received on April 15, 2019 and deemed complete on May 22, 2019. The Development Review Committee (DRC) approved the Application on June 4, 2019. The Application is being reviewed by the Planning Commission because the decision of the DRC has been appealed (Exhibit 5).

PROJECT DESCRIPTION:

A. Subdivision

In accordance with Ordinance 2281, the applicant applied to subdivide the subject property into eight lots. Following approval of the Tentative Map, a Final Map must be submitted and approved by the Town Council, and then be recorded to effectuate the subdivision of the property.

DISCUSSION:

A. Town Council

Video of the Town Council consideration of the project at the April 2, 2019 meeting is available at <https://www.losgatosca.gov/13/Agendas-Minutes>. The following discussion includes time-stamp references to specific points of discussion.

While questioning the applicant, a Councilmember suggested dedicating an open space strip of some amount connecting the open space area on the north end of the property to the property to the south to prevent installation of fencing and ensure wildlife movement across the property (0:50:30). The Councilmember also mentioned that the same thing could be done across the north edge of lots 1 and 8. During discussion, the Councilmember also asked about how a motion could be constructed to include language describing where scenic easements could be added (1:02:00).

A motion for approval was made by the Vice Mayor with the addition of a performance standard requiring dedication of scenic easements on those lots that the Councilmember had been discussing (1:05:00). The Council voted unanimously to introduce the Ordinance and approve the project.

On April 16, 2019, the Town Council adopted the draft Ordinance approving the Planned Development Overlay and allowing for the subdivision of the subject property with the addition of the following performance standard. This performance standard was drafted to accomplish the goal of connecting the open space area on the north end of the property (on lots 1, 5, and 8) to the property to the south, creating a contiguous protected area through the property:

To the satisfaction of the Director of Community Development:

28. SCENIC EASEMENTS: Scenic easements shall be dedicated on the parcel map by separate instrument across portions of lots 1, 2, 3, and 5 connecting the area to be dedicated as open space on the north portions of lots 1 and 5 to the south property

DISCUSSION (continued):

lines of lots 2 and 3. Easement language shall indicate that such land shall not be encroached into with fences, structures, landscaping, or improvements of any kind, and no work shall be performed within the Scenic Easement, including clearing, other than for wildland fire fuel management or weed abatement. Any and all maintenance within the scenic easements shall be the sole responsibility of the property owner.

On April 15, 2019, the Subdivision Application was submitted. The Tentative Map included a 100-foot wide easement corridor connecting the open space on the north end of the property to the property to the south. Because a scenic easement along the west property line of lot 1 would crowd the conceptual building pad, the scenic easements were located on the east edge of lots 2, 3, and 5. Additionally, the scenic easement corridor was turned southeast into the southern portion of lot 2 to avoid a portion of a fenced property owned by the San Jose Water Company and a dirt road leading to a gate and structures on the property to south. The revised location accomplishes the goal of connecting the open space area on the north end of the property on lots 1, 5, and 8 to the property to the south, creating a contiguous protected area through the property. Additional scenic easements were not pursued along the north property lines of lots 1 and 8 as they would not create a connection through the property from the open space area on the north end of the property to the property to the south.

B. Appeal

On June 10, 2019, the June 4, 2019 decision of the DRC was appealed to the Planning Commission by David Weissman (Exhibit 5). The reasons for the appeal are summarized below, along with staff's responses in *italic* font.

1. The appellant indicates that the scenic easement corridor shown on the Tentative Map does not conform to the motion made by the Vice Mayor (Exhibit 5).

During questions of the applicant and Council discussion, a Councilmember explored various placements of scenic easements to accomplish the goal of connecting the open space area on the north end of the property to the property to the south, creating a contiguous protected area through the property. At one point, the Councilmember mentioned a scenic easements along the west edge of lots 3 and 5 (1:02:00). The Vice Mayor's motion included a performance standard that scenic easements be added to "those lots where Mr. Rennie has been talking about a scenic easement" (1:05:00). Because a scenic easement along the west property line of lot 1 would crowd the conceptual building pad, the scenic easement corridor was located on the east edge of lots 3 and 5, turning southeast into a portion of lot 2. This easement corridor addressed

DISCUSSION (continued):

the performance standard to connect the open space area on the north end of the property to the property to the south, creating a contiguous protected area through the property.

2. The proposed scenic easement corridor, with its width of 102.4 feet, is capricious and too small. It also completely misses the proposed trails system of lots 1 and 2, which makes no sense whatsoever (Exhibit 5).

The placement of the scenic easement corridor included on the Tentative Map addressed the performance standard to connect the open space area on the north end of the property on lots 1, 5, and 8 to the property to the south, creating a contiguous protected area through the property. A scenic easement was not placed on lot 1 because it was perceived to crowd the building pad on the lot. Separate four-to ten-foot wide trail easements, independent of the scenic easements and open space, would provide north-to-south pedestrian access through the property and traverses through portions of all but one of the properties. Additionally, this trail crosses through portions of the scenic easement corridor and open space.

Regarding the width of the proposed scenic easements, the proposed 102.4-foot width would provide a substantial corridor through the property connecting the open space area on the north end of the property to the property to the south.

PUBLIC COMMENTS:

Written notice of the Planning Commission hearing was sent to property owners and tenants within 500 feet of the subject property. No public comments have been received as of the writing of this report.

CONCLUSION:

A. Conclusion

During the April 2, 2019 Town Council meeting, a number of locations for scenic easements were discussed. While the Town Council motion for approval was not prescriptive in defining the exact location of each easement, it did include a requirement for scenic easements to create a connection through the property. Staff implemented the goal of including a scenic easement performance standard to connect the open space area on the north end of the property on lots 1, 5, and 8, to the property to the south, creating a contiguous protected area through the property. The placement of the scenic easements across portions of lots 2, 3, and 5 accomplishes the goal of the performance standard.

CONCLUSION (continued):

B. Recommendation

Staff recommends that the Planning Commission take the following actions to deny the appeal, uphold the decision of the DRC, and approve the Subdivision Application:

1. Find that a Final Environmental Impact Report (EIR) and Mitigation Monitoring and Reporting Program were adopted by the Town Council (Ordinance 2281) for the proposed development and no significant unmitigated impacts are associated with the application (Exhibit 2);
2. Find that the proposed project complies with Section 66474 of the State Subdivision Map Act and make affirmative findings to approve the application (Exhibit 2);
3. Find that the project is in substantial conformance with the performance standards and development plans contained within Ordinance 2281 (Exhibit 2); and
4. Approve Subdivision Map Application M-19-004 with the conditions contained in Exhibit 3 and the map attached as Exhibit 6.

C. Alternatives

Alternatively, the Commission can:

1. Continue the matter to a date certain with specific direction;
2. Deny the appeal and approve the Application with additional and/or modified conditions; or
3. Grant the appeal and deny the Application.

EXHIBITS:

1. Location Map
2. Required Findings and Considerations
3. Recommended Conditions of Approval
4. Ordinance 2281
5. Appeal of Development Review Committee decision, received June 10, 2019
6. Tentative Map