



BOARD OF SUPERVISORS COUNTY OF MADERA

MADERA COUNTY GOVERNMENT CENTER
200 WEST 4TH STREET / MADERA, CALIFORNIA 93637
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The Board of Supervisors

December 20, 2022
Chairman Tom Wheeler

DEPARTMENT Planning Division/CED	DEPARTMENT CONTACT Maria Rocha	AGENDA ITEM {{item.number}} DISCUSSION ITEMS								
SUBJECT: Appeal of the Planning Commission Decision and Conditions of PM #4287 - Garcia Cortes, Fernando.	REQUIRED VOTE: 3/5 Vote Required	DOC. ID NUMBER 22-1054								
STRATEGIC FOCUS AREA(S): Infrastructure										
For Clerk of the Board's Office Use Only										
CLERK NOTES: {{motions.text}}										
<table><tr><td>RESULT:</td><td>{{voting.status}} [{{voting.for_count}}] TO [{{voting.against_count}}]</td></tr><tr><td>MOVER:</td><td>{{motions.mover format="[[firstname]] [[lastname]], [[title]]"}}</td></tr><tr><td>SECONDER:</td><td>{{motions.seconder format="[[firstname]] [[lastname]], [[title]]"}}</td></tr><tr><td>AYES:</td><td>{{voting.for_names format="[[lastname]]"}}</td></tr></table>			RESULT:	{{voting.status}} [{{voting.for_count}}] TO [{{voting.against_count}}]	MOVER:	{{motions.mover format="[[firstname]] [[lastname]], [[title]]"}}	SECONDER:	{{motions.seconder format="[[firstname]] [[lastname]], [[title]]"}}	AYES:	{{voting.for_names format="[[lastname]]"}}
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Is this item Budgeted? N/A Will this item require additional personnel? N/A Previous Relevant Board Actions: N/A PowerPoint Presentation? No Supporting Documents: Resolution, Other/Misc.		DOCUMENT NO(S).								

RECOMMENDED ACTIONS:

Hearing to adopt a Resolution denying the appeal of the Planning Commission's decision to approve tentative parcel map #4287, subject to conditions, Findings of Fact, and Categorical Exemption 15315 Class 15.

DISCUSSION / FISCAL IMPACT / STRATEGIC FOCUS:

DISCUSSION:

The parcel map application was submitted and routed for review in December of 2021; however, was put on hold due to the application being incomplete. The application was circulated to internal and external agencies for comments, including Native American tribes per Assembly Bill 52 requirements. Comments were received from Environmental Health, Public Works, and the Assessor's Office. Environmental Health recommended a Shared Water Well Agreement between parcels and full compliance with Madera County Code Title 13 as it relates to water and sewer. Public Works required the existing 30' wide easement along the west side of the parcel be dedicated/offered in fee.



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On April 27th, 2022, the Parcel Map Committee approved a tentative Parcel Map (PM#4287) which would divide 4.77 acres of RRS-2 (Residential, Rural, Single-Family District-2 acre) zoned property into two parcels (2 acres & 2.77-acres). The tentative map is exempt from any environmental assessment due to Categorical Exemption 15315 Class 15. The exemption applies to any division of property into four or fewer parcels within a residential urbanized area. The proposed division is in conformance with the General Plan and zoning designations, does not have any variances, and does not have a slope greater than 20 percent. Per the applicant's operational statement, the proposed division will facilitate future residential development for each parcel.

On May 2, 2022, an appeal letter was delivered to Planning staff by surrounding property owners. Pursuant to Section 17.72.200 of the Madera County Code, in the event that the applicant, or any member of the parcel map committee, or any other person, firm or corporation is not satisfied with the action of the director, within ten days of such action, an appeal may be filed in writing to the board of supervisors.

Per the Madera County ordinance (Sec.17.72.140 (h)), a decision made by the Parcel Map Committee may be appealed to the Planning Commission and/or Board of Supervisors. The hearing before the planning commission shall be noticed and conducted upon the following conditions (Sec.17.72.141):

- A. The commission shall consider the division of land and determine whether the division is in accordance with the rules and regulations established by state statute, and the ordinances of the county and whether any substantial injury would be caused to any real property right or interest of any person objecting to said parcel map.
- B. The commission may approve, disapprove or approve said division of land upon specific terms and conditions.
- C. The order of the planning commission shall be followed in the processing of said parcel map.
- D. The order of the commission may be appealed to the board of supervisors by any department, or any person appearing at said hearing and adversely affected by the decision thereof. Said appeal shall be made in writing within fifteen days from the date of the decision by the planning commission, upon the payment of an appeal fee.
- E. Failure to file the appeal within the time specified herein is jurisdictional.

The Planning Commission held a hearing on August 2, 2022 pursuant to the appeal.



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PLANNING COMMISSION DECISION:

Kamara Biawogi, Planner III, presented the information on this item and recommended approval of the tentative parcel map.

Comments: Jonathan Garcia, son of the applicant, spoke in favor of the project.

Kellie Lash, spoke in favor of the project.

Duskin Franz, spoke against the project.

Steve Elkins, spoke against the project.

Jose Ruiz, spoke against the project.

Melissa Sloan, spoke against the project.

Mara Franz, spoke against the project.

Angela Stat, spoke against the project.

On motion by Commissioner Burdette and seconded by Commissioner Dal Cerro, it was ordered to deny the appeal of Tentative Parcel Map (PM #4287), and per the recommendation from Environmental Health for no more than one well which will be a shared well. The motion carried on a vote of 4-1 in favor. Yes: Commissioner Burdette, Commissioner Nijjar, Commissioner Dal Cerro, and Commissioner Hurst. No: Commissioner Miles-Mattingly.

After the Planning Commission hearing, an appeal request was submitted by both the appellants and the applicant for hearing before the Board of Supervisors. The appeals were submitted pursuant to Section 17.72.200 of the Madera County Code. The applicant is appealing the condition recommended by Environmental Health, and approved by the Planning Commission, to allow only one water well to be shared by both parcels. The surrounding owners' appeal is based on concerns of impacts to the water table, trash and debris on the property, and public nuisance.

If the Board decides to deny both appeals, the project's map and conditions of Approval have been included for review.

FINDINGS OF FACT:

1. The proposed project does not violate the spirit or intent of the Zoning Ordinance in that the proposed parcel map complies with the existing general plan and zoning parcel size requirements. The RRS-2 zone district (Residential, Rural, Single Family, 2 Acre) and RR (Rural Residential) designations are compatible.



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2. The proposed project is not contrary to the public health, safety, or general welfare. No activities from the proposed project are projected to have a significant impact on the public's health, safety, or general welfare. Conditions have been placed to mitigate any water and sewer related issues.
3. The proposed project is not hazardous, harmful, noxious, offensive, or a nuisance because of noise, dust, smoke, odor, glare, or similar, factors, in that the project must adhere to the conditions of approval as well as mitigation measures. The proposed parcel map is not projected to have any hazardous elements involved.
4. The proposed project will not for any reason cause a substantial, adverse effect upon the property values and general desirability of the surrounding properties. Due to the contiguous residential parcels within the region, the proposed parcel map will not have a negative effect on surrounding properties. Future development on the parcels will include residential structures which are in line with the Valley Lake Ranchos subdivision.

If this project is approved, the applicant will need to submit a check, made out to the County of Madera, in the amount of \$50.00 for the filing of a Notice of Exemption at the Madera County Clerks' office. The County Clerk Fee, is due within five days of approval.

FISCAL IMPACT:

There would be no impact to the General Fund.

CONNECTION TO THE COUNTY OF MADERA STRATEGIC PLAN - MISSION 2023:

STRATEGIC FOCUS AREAS

Focus Area 6: Infrastructure

ATTACHMENTS

1. Resolution
2. Staff Report
3. Conditions of Approval
4. Appeal Letter – Fernando Cortez
5. Appeal Letter – Duskin and Mara Franz