



RESOLUTION No. 18-143

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

RESOLUTION DENYING THE APPEAL FILED BY ANDREW CASSANO REGARDING THE PLANNING DIRECTOR'S JANUARY 19, 2018, NOTICE OF CONDITIONAL APPROVAL FOR A BOUNDARY LINE ADJUSTMENT BETWEEN TWO PARCELS TO TRANSFER ONE ACRE OF PROPERTY AT 15144 LAKE LANE (APN 38-500-01/02) AND 15200 LAKE LANE (APN 38-120-06) IN NEVADA CITY AND MAKING MODIFICATIONS TO CONDITION OF APPROVAL # 3

WHEREAS, on December 19, 2017, Andrew Cassano with Nevada City Engineering, Inc., submitted an application on behalf of Susan Rideout, Claudia Baker and Patricia Fraga for a Boundary Line Adjustment to transfer 1.0 acres of property from the Rideout/Baker parcel at 15144 Lake Lane (APN 38-500-01/02) to the Fraga parcel at 15200 Lake Lane (APN 38-120-06); and

WHEREAS, on January 19, 2018, the Planning Director considered and approved an application submitted by Andrew Cassano with Nevada City Engineering, Inc., on behalf of Susan Rideout, Claudia Baker and Patricia Fraga for a Boundary Line Adjustment to transfer 1.0 acres of General Agricultural (AG-30) zoned property containing an existing barn structure from the Rideout/Baker parcel (APN 38-500-01/02), to the Fraga parcel (APN 38-120-06) with Single-Family (R1-X) zoning; and

WHEREAS, approval of the project was conditioned to correct building code violations prior to the recordation of the Boundary Line Adjustment; and

WHEREAS, pursuant to Section L-II 5.12.D of the Nevada County Land Use and Development Code, the Planning Agency's approval of the Application is appealable to the Board of Supervisors within 10 days after the date of the decision; and

WHEREAS, on January 29, 2018, Appellant Andrew Cassano filed a timely appeal of the Planning Agency's decision to reverse the decision of the Planning Director to remove the condition in the approval related to the unpermitted structures; and

WHEREAS, on February 27, 2018, the Board of Supervisors adopted Resolution 18-090 to accept the appeal as to the Planning Director's actions on the project and scheduled the appeal for hearing on March 27, 2018; and

WHEREAS, the project as conditioned is consistent with the Nevada County Land Use and Development Code Section L-V 2.2 Section 114: Violations; and

WHEREAS, the project was found consistent for approval under Boundary Line Adjustments pursuant to Nevada County Land Use and Development Code Section L-II 4.1.3; and

WHEREAS, on March 27, 2018, the Board of Supervisors held a duly noticed public hearing at which the Board considered all evidence both oral and written regarding the appeal and directed staff to modify Condition of Approval #3 to allow the lot line adjustment to move forward and record on its own independent timeline but require the unpermitted structures to be removed or for permits to be applied for to legalize the structures within 60 days of recordation or the matter would be referred to Code Compliance Division.

WHEREAS, the Conditions of Approval #3 has been modified to reflect the Board's direction and is included in Exhibit "A" attached hereto.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Nevada that it hereby finds and determines that:

1. The facts set forth above are true and correct.
2. That this project as conditioned is consistent with the Nevada County Land Use and Development Code, including Section L-V 2.2 Section 114: Violations, that allows lot line adjustments (Boundary Line Adjustments) to be conditioned to correct building code violations including revised Condition of Approval #3 as included in Exhibit "A" attached hereto.
3. These findings are supported by substantial evidence in the record, as detailed in this Resolution, in the staff report for the March 27, 2018 appeal hearing, as discussed at the March 27, 2018 hearing, and the April 10, 2018 staff report. That evidence includes but is not limited to the professional expert advice of staff of the County's Planning Department, County Counsel, as well as the judgment of the Board of Supervisors.
4. The location and custodian of the documents, which constitute the record of these proceedings, is the Nevada County Planning Department, 950 Maidu Avenue, Nevada City, California.

BE IT FURTHER RESOLVED that the Board of Supervisors hereby denies the appeal of the Appellant and upholds the decision of the Planning Director to conditionally approve the Boundary Line Adjustment (PLN 17-0135; LLA17-0024) with modified Condition of Approval #3 as shown in attached Exhibit "A" attached hereto, located at 15144 Lake Lane and 15200 Lake Lane in unincorporated Nevada County, based on the findings as set forth herein.

The Clerk of the Board shall mail the Appellant a copy of this Resolution, and any appeal of this decision shall be governed by California Code of Civil Procedure Section 1094.6.

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 10th day of April, 2018, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Edward Scofield, Hank Weston and Richard Anderson

Noes: None.

Absent: Supervisor Dan Miller

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER
Clerk of the Board of Supervisors

By: _____



Edward Scofield, Chair

4/10/2018 cc: Planning*
AC*
NCE, Inc.

Exhibit "A"

The following changes are made to Condition of Approval #3 for the Baker/Fraga lot line adjustment (LLA17-0024). Deletions are shown in strikethrough and additions are shown in underlined italics.

3. There are no records of building permits for the structures identified as a barn and a shed on APN 38-500-01. Additionally, the shed is located in the access and utility easement. The following shall be required within 60 days of the recordation of the lot line adjustment:
 - (a) Shed- Move the structure out of the easement and relocate it to another location on the property, or remove the structure, or provide verification that the structure legally existed prior to the easement being created. Please be aware that if the shed is relocated, a building permit shall be obtained and must be applied for within 60 days of recordation, or verification is required to show that the shed meets permit exemption requirements.
 - (b) Barn- An as-built permit shall be obtained and must be applied for within 60 days of recordation, or verification shall be provided to show that the barn meets permit exemption requirements, or proof that the barn was constructed prior to 1962 and has not been altered.

If building permits have not applied for or the structures have not been removed or proven legal within 60 days of recordation, the matter will be referred to the Code Compliance division to ensure the building permit violations are corrected.