

DEPARTMENT: Planning

BY: Damon Golubics, Senior Planner
PHONE: 742-1250

RECOMMENDED ACTION AND JUSTIFICATION:

Approve format of resolution granting Appeal No. 2010-82 with findings, overturning the Planning Director's action regarding a portion of Certificate of Compliance Application No. 2009-037 for six (6) Certificates of Compliance for property located within APN 011-080-010.

Justification is provided in the draft resolution.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

None

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Modify format including findings for action.

Financial Impact? () Yes (X) No Current FY Cost: \$ Annual Recurring Cost: \$
Budgeted In Current FY? () Yes () No () Partially Funded

Amount in Budget: \$ _____
Additional Funding Needed: \$ _____
Source:
Internal Transfer _____
Unanticipated Revenue _____ 4/5's vote
Transfer Between Funds _____ 4/5's vote
Contingency _____ 4/5's vote
() General () Other _____

Staff Memorandum to the Board with Exhibit:
A. Draft Board of Supervisor's Resolution

CLERK'S USE ONLY:

Res. No.: 10-553 Ord. No. _____
Vote - Ayes: 5 Noes: _____
Absent: _____
AW Approved
() Minute Order Attached () No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date: _____
Attest: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California
By: _____
Deputy

COUNTY ADMINISTRATIVE OFFICER:

Requested Action Recommended
 No Opinion
Comments:

CAO: *DG*



MARIPOSA PLANNING

COUNTY OF MARIPOSA

5100 BULLION STREET • POST OFFICE BOX 2039

MARIPOSA, CALIFORNIA 95338-2039

209 . 742-1250 • FAX 209 . 742 . 5024

Kris Schenk, Director

kschenk@mariposacounty.org

Sarah Williams, Deputy Director

swilliams@mariposacounty.org

Damon Golubics, Senior Planner

dgolubics@mariposacounty.org

MEMORANDUM

Date: November 29, 2010
To: Board of Supervisors
From: Damon Golubics, Senior Planner
RE: Appeal No. 2010-82

At the November 23, 2010 Board of Supervisor's meeting, the Board adopted a Resolution granting Appeal No. 2010-82 and overturning the Planning Director's determination regarding a portion of Certificate of Compliance Application No. 2009-037 for six (6) Certificates of Compliance.

Per the Board's direction, staff has prepared a draft resolution reflecting the decision to reverse the Planning Director's determination that the grant deed was like a Lot Line Adjustment. Thus the Planning Director shall approve unconditional Certificates of Compliance for Lots 90-1/4 & 90-7/8.

ATTACHMENTS:

Draft Board of Supervisor's Resolution

STATE OF CALIFORNIA
COUNTY OF MARIPOSA
BOARD OF SUPERVISORS

Resolution
No. 10-543

A resolution granting Appeal No. 2010-82 with findings, and overturning the Planning Director's determination regarding a portion of Certificate of Compliance Application No. 2009-037 for six (6) Certificates of Compliance for property located within APN 011-080-010 and located east of Bear Valley Road in the town of Hornitos

WHEREAS, Certificate of Compliance Application No. 2009-037 was submitted on the 6th day of March, 2009 by Hornitos Land Company, LLC, c/o Steve Sloan and Starchman and Bryant Attorneys at Law; and

WHEREAS, the application requested six (6) Certificates of Compliance for acreage known as APN 011-080-010, a 27.90 acre APN located at located at the end of Bauer and Water Streets in the town of Hornitos; and

WHEREAS, this application was part of a package involving nine (9) separate applications for Certificates of Compliance and 57 parcels; and

WHEREAS, on June 8th, 2010, the Planning Director sent a letter to the applicant and agent indicating that 2 Certificates of Compliance could be approved for Lots 92 and 93, however, 4 of the proposed Certificates of Compliance could not be approved based on the information submitted with the application; and

WHEREAS, the Planning Director determination found that the indenture conveying Lots 90-1/4 and 90-7/8 was like a Lot Line Adjustment; and

WHEREAS, the Planning Director correspondence written on the 8th day of June, 2010 identified options for continued processing but the agent for the applicant appealed the Planning Director determination; and

WHEREAS, on the 28th day of June 2010 an appeal of the Planning Director's action on a portion of Certificate of Compliance Application No. 2009-037 for six (6) Certificates of Compliance was made to the Board of Supervisors. That appeal was accepted as complete for processing on the 29th day of June 2010 and that appeal is known as Appeal No. 2010-82; and

WHEREAS, processing of Appeal No. 2010-82 was conducted pursuant to Mariposa County Resolution No. 10-42; and

WHEREAS, a duly noticed Board of Supervisors public hearing to consider Appeal No. 2010-82 was scheduled for the 26th day of October 2010; and

WHEREAS, a Staff Report addressing the Notice of Appeal was prepared pursuant to local administrative procedures; and

WHEREAS, the Board of Supervisors continued Appeal No. 2010-82 from the 26th day of October 2010 to the 23rd day of November 2010.

WHEREAS, at a public hearing on the 23rd day of November 2010, the Board of Supervisors considered all of the information in the public record, including the Staff Report packet, correspondence and testimony presented by the public concerning the Planning Director Determination, the Notice of Appeal, case law language and the comments of the property owner and appellant pertaining to Appeal No. 2010-82; and

WHEREAS, the Board of Supervisors gave particular consideration to a grant of Hornitos Townsite Lots 90-1/4 and 90-7/8; both of these two "lots" were granted to Gagliardo and Co. in one indenture, recorded in Book 1 at Page 85 by the original "developers" of the town of Hornitos on April 11, 1899.

NOW, THEREFORE, BE IT RESOLVED THAT, the Board of Supervisors of the County of Mariposa does hereby grant Appeal No. 2010-82 and overturn the Planning Director's determination regarding a portion of Certificate of Compliance Application No. 2009-037 involving Lots 90-1/4 and 90-7/8.

BE IT FURTHER RESOLVED THAT, the Board of Supervisors action is based upon the following findings:

1. The indenture recorded in Book 1 at Page 85, Mariposa County Records, grants Hornitos Townsite Lots 90-1/4 and 90-7/8 from one party to another party.
2. The indenture refers to the lots as "those two certain pieces or parcels of land".
3. Lot 90-1/4 and Lot 90-7/8 are not contiguous.
4. The indenture is a "grant deed" recorded prior to March 4, 1972 based upon text within the document to "grant" and "convey".

BE IT FINALLY RESOLVED THAT, based upon this action to grant Appeal No. 2010-82 and overturn the Planning Director's determination, the indenture recorded in Book 1 at Page 85, Mariposa County Records is not like a Lot Line Adjustment. Therefore, the Planning Director can and shall take action to grant two unconditional Certificates of Compliance to Lots 90-1/4 and 90-7/8.

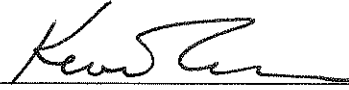
ON MOTION BY Supervisor Allen, seconded by Supervisor Turpin, this resolution is duly passed and adopted this 23rd day of November, 2010 by the following vote:

AYES: Allen, Turpin and Cann

NOES: Aborn and Bibby

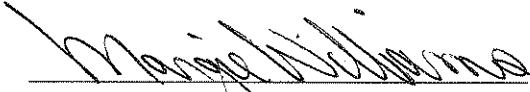
EXCUSED: None

ABSTAIN: None



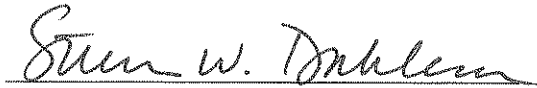
Kevin Cann, Chairman
Mariposa County Board of Supervisors

ATTEST:

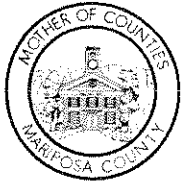


Margie Williams
Clerk of the Board of Supervisors

APPROVED AS TO LEGAL FORM:



Steven W. Dahlem
County Counsel



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Kris Schenk, Director

kschenk@mariposacounty.org


Sarah Williams, Deputy Director

swilliams@mariposacounty.org

Damon Golubics, Senior Planner

dgolubics@mariposacounty.org

MEMORANDUM

Date: December 6, 2010
To: Board of Supervisors
From: Damon Golubics, Senior Planner 
RE: Consent Agenda Item CA-113 (Final Resolution for Appeal No. 2010-82)

On Friday December 3, 2010, it was brought to the attention of staff that there was a perceived error on circle page 2 of the draft resolution. As is it pertains to the 7th "whereas," the following correction should be considered by the Board of Supervisors prior to adoption of this resolution. The recommended changes are shown in *italicized underlined type* and deleted text shown in ~~strike thru type~~:

WHEREAS, on the ~~29th~~ 28th day of June 2010 an appeal of the Planning Director's action on a portion of Certificate of Compliance Application No. 2009-037 for six (6) Certificates of Compliance was made to the Board of Supervisors, That appeal was accepted as complete for processing on the 29th day of June 2010 and that appeal is known as Appeal No. 2010-82; and

This revision should bring added clarity to the draft resolution prior to formal adoption by the Board of Supervisors.

Our Mission is to provide our clients with professional service and accurate information in a respectful, courteous, and enthusiastic manner resulting in a well-planned rural environment.

11-23-10

**MARIPOSA COUNTY
BOARD OF SUPERVISORS**

**AGENDA
ACTION FORM**

DATE: October 26, 2010 *Cont'd*
AGENDA ITEM NO. *76 15*

DEPARTMENT: Planning

BY: Damon Golubics, Senior Planner
PHONE: 742-1250

RECOMMENDED ACTION AND JUSTIFICATION:

Adopt a resolution denying Appeal No. 2010-82 with findings, upon Director's action.

Justification is provided in the Staff Report to Board of Supervisors from M

*Original in
Res folder for
Res 10-543*

BACKGROUND AND HISTORY OF BOARD ACTIONS:

None

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Grant the appeal and reverse the Planning Director's determination finding that there is adequate justification to grant unconditional Certificates of Compliance for two (2) parcels (Lots 90-1/4 & 90-7/8) within APN 011-080-010, a 27 acre APN.

Financial Impact? () Yes (X) No Current FY Cost: \$ Annual Recurring Cost: \$
Budgeted In Current FY? () Yes () No () Partially Funded

Amount in Budget: \$ _____
Additional Funding Needed: \$ _____
Source:
Internal Transfer _____
Unanticipated Revenue _____ 4/5's vote
Transfer Between Funds _____ 4/5's vote
Contingency _____ 4/5's vote
() General () Other _____

Staff Report to the Board with Exhibits:
A. Vicinity Map
B. June 8th 2010 Planning Director Determination
C. Notice of Appeal No. 2010-82; Hornitos Land Co. LLC
D. Maps Showing Lot 33, 90- 1/4, 90- 7/8, 91, 92 and 93
E. Draft Board of Supervisors Resolution
F. Record of Survey
G. Grant Deed
H. Appellate Level Cases (*Abernathy & Witt*)
I. Correspondence

CLERK'S USE ONLY:

Res. No.: *10-543* Ord. No. _____
Vote - Ayes: *3* Noes: *Abern, Bibby*
Absent: _____
() Approved
3/10/20 () Minute Order Attached () No Action Necessary

COUNTY ADMINISTRATIVE OFFICER:

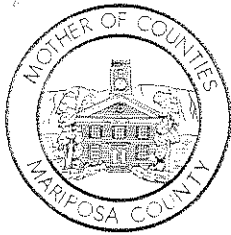
Requested Action Recommended
 No Opinion
Comments:

The foregoing instrument is a correct copy of the original on file in this office.

Date: _____
Attest: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California

By: _____
Deputy

CAO: *RJB*



COUNTY OF MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

KEVIN CANN, CHAIR
JIM ALLEN, VICE-CHAIR
BRAD ABORN
LYLE TURPIN
JANET BIBBY

DISTRICT IV
DISTRICT V
DISTRICT I
DISTRICT II
DISTRICT III



MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: KRIS SCHENK, Planning Director

FROM: MARGIE WILLIAMS, Clerk of the Board *MW*

SUBJECT: PUBLIC HEARING to Consider Appeal No. 2010-82, an Appeal of the Planning Director's Determination Regarding a Portion of Certificate of Compliance Application No. 2009-037 for Six (6) Certificates of Compliance. Property Owners and Appellants: Hornitos Land Company LLC/Steve Sloan. Project Site is APN 011-080-010; Located at the end of Bauer Street in the Town of Hornitos.

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on October 26, 2010

ACTION AND VOTE:

16 **Planning**
PUBLIC HEARING to Consider Appeal No. 2010-82, an Appeal of the Planning Director's Determination Regarding a Portion of Certificate of Compliance Application No. 2009-037 for Six (6) Certificates of Compliance. Property Owners and Appellants: Hornitos Land Company LLC/Steve Sloan. Project Site is APN 011-080-010; Located at the end of Bauer Street in the Town of Hornitos.
NOTE: This Public Hearing will be continued to November 23, 2010 at 2:00 p.m.
BOARD ACTION: Kris Schenk advised of the request received from the agent for the applicant to continue this hearing for the full Board to be present. (M)Bibby, (S)Aborn, the hearing was continued to November 23, 2010, at 2:00 p.m./Ayes: Aborn, Turpin, Bibby, Allen; Excused: Cann.

Cc: Steven W. Dahlem, County Counsel
File