

Holly Smyth

From: Nanci Lima [nlima@lemoore.com]
Sent: Thursday, July 14, 2011 2:38 PM
To: Holly Smyth
Subject: FW: 7/19 Agenda Item Request City Council Meeting

From: Angela Baumeister [mailto:angeladara78@yahoo.com]
Sent: Wednesday, July 13, 2011 12:50 PM
To: Nanci Lima
Cc: jimnrob2000@yahoo.com; Ryan Ramponi; Susanne Thomas
Subject: 7/19 Agenda Item Request City Council Meeting

Agenda Item Request for 7/19 City Council Meeting.

Requestor: Lemoore Country Club Estates #2 Homeowner's Association Board Members

Issue: Homeowner requesting improvement building of permanent structure in backyard consisting of gazebo/patio which lies within 20 feet and abuts the golf course fence.

Clarify background: 20 foot clear strip imposed by Declaration of Covenants, Conditions and Restrictions Parcel Map 9204 City of Lemoore, filed December 1, 1992 in Item Number 3. stating "a minimum clear strip of twenty feet in width adjacent to or abutting the length of the remainder parcel..."

The Lemoore Country Club Estates #2 CC&Rs only indication of anything related to this states in item 3 page 4.4 "The City's approval shall also be required regarding the erection or construction of any Improvement in back yards which abut the Lemoore Golf Course."

The homeowner's association board has approved this improvement. The City will not issue a permit to the builder. The Planning Director, Holly Smyth, has stated that we must amend our CC&Rs in order to allow for this structure. The association's board has two concerns with this: 1) The 20' clear strip is not part of our association's CC&Rs. It very clearly states that the board and the city must approve any plans. We believe the amendment is on the city's end of the matter to edit/update the City of Lemoore's CC&Rs aforementioned; and 2) the unnecessary costs and resources associated with amending the association's CC&Rs and attaining necessary ballot votes when we still have 18 outstanding lots which are still owned by the unavailable developer. The board for the association, as well as the requesting homeowner, have jumped through numerous hoops trying to resolve this situation to consistently come back to the same answer that we have to amend our CC&Rs which do not indicate anything with regard to the 20' clear strip.

This has been an extremely time consuming and frustrating process to attain approval for something that will only enhance the view of a back yard from the golf course.

We would greatly appreciate the opportunity to resolve this situation without continued unnecessary delays, time and resources.

Thank you.

Angela Baumeister, Board Member
Lemoore Country Club Estates II
(918) 269-7648
angeladara78@yahoo.com

7/14/2011

Mayor
Willard Rodarmel
Mayor Pro Tem
John Plourde
Councilmember
John Gordon
John Murray
William Stegel



PLANNING
DEPARTMENT

210 Fox Street
Lemoore CA 93245
Phone (559) 924-6740
FAX (559) 924-6743

March 4, 2011

Lemoore Country Club Villas #2
Homeowners Association
Mr. James Vigil, President
P. O Box 871
Visalia, CA 93279

Re: Amendment to Resolution 9224 for Tract 783 – Lemoore Country Club Villas #2

Dear Mr. Vigil:

We are in receipt of your request to amend your CC&R's for Tract 783 Lemoore Country Club Villas #2 pertaining to Condition #5 of Resolution 9224. In order to process this request we will need you to forward the language that you will replace in your CC&R's through an addendum or modification to the CC&R's of the new language. As an example, the following language was part of the CC&R's by the last developer who requested this change in 2002.

Clear Area: All lots abutting the Golf Course shall maintain a minimum clear area of 20 feet adjacent to the Golf Course unless approved by the Community Development Department for architectural features (including architecturally enhanced patio covers, gazebos, trellises, etc.) as amended by City Council Resolution 2007-12. No permanent enclosed buildings shall be placed in the clear area and no recreation vehicles, boats, motorcycles or other vehicle shall be stored or parked within the clear area. No temporary structure will exceed 100 square feet in area.

The highlighted text would be the minimum language the City would want included to allow what we understand you want within the City Council's intent. The other shown text can be used/modified/or deleted.

Please note that this does not eliminate the 20' easement but allows owners to submit an application along with the processing fee to the City for administrative review, to allow architectural features within this area that enhance the aesthetics from the golf course. Administrative approval may also require building permit issuance before construction is started.

Once we have received this language we will process your request and return the approval. Also, any projects being individually proposed, within your subdivision will have to be approved by the Homeowners Association before submitting to the City for review.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Hobbs".

G. Hobbs
Assistant Planner

cc: Building Department

"In God We Trust"

RESOLUTION NO. 2007- 12

RESOLUTION AMENDING CONDITION #5 OF CITY COUNCIL RESOLUTION 9224
BY THE CITY OF LEMOORE

At a Regular Meeting of the Lemoore City Council duly called and held on April 17, 2007 it was moved by Councilmember _____, seconded by Councilmember _____ and carried that the following Resolution be adopted:

WHEREAS, on June 2, 1992, City Council approved Resolution No.9224 granting Planned Unit Development No.9201 with certain conditions pertaining to development on a 65.37 portion of Assessor Parcel No.024-052-38 located within the Lemoore Golf Course and comprised of Parcel Nos. 1, 2, and 3 of Parcel Map No.9204; and

WHEREAS, Planned Unit Development No.9102 was approved with seven conditions of approval; and

WHEREAS, Condition #5 required "that all lots abutting the golf course shall maintain a minimum clear area of 20 feet adjacent to the golf course. No permanent structures shall be placed in the clear area and no recreation vehicles, boats, motorcycles or other vehicle shall be stored or parked within the clear area. No temporary structure will exceed 100 square feet in area".

WHEREAS, the Planning Commission of the City of Lemoore conducted a Public Hearing on January 10, 2005 for Planned Unit Development #2004-04 / Conditional Use Permit #2004-10 / Vesting Tentative Subdivision Map #2004-06 for Tract 752 by Coker Ellsworth as required by the City of Lemoore Municipal Code, it being established that all notice requirements as set forth in Section 9-15G2.D of the said code have been complied with; and

WHEREAS, the City Council of the City of Lemoore conducted a Public Hearing on February 1, 2005 as required by the City of Lemoore Municipal Code, it being established that all notice requirements as set forth in Section 9-15G2.G of the code have been complied with.

WHEREAS, it was determined by the Planning Commission that the Environmental Impact Assessment pertinent to the proposal would not have any significant effect on the environment and adopted a Negative Declaration pursuant to California Environmental Quality Act, as amended; and

WHEREAS, on February 1, 2005 the City Council approved Resolution 2005-04 approving Tract 752 Fairway Homes Phases I and II with condition # 23 requesting that condition #5 of City Council Resolution 9224 be amended for Tract 752; and

WHEREAS, condition #5 of Resolution No. 9224 should be modified to allow architectural features to be located in the 20' clear area as approved by the Community Development Department.

NOW, THEREFORE, BE IT RESOLVED that the Lemoore City Council does hereby grant the amendment to Condition No.5 of Resolution 9224 for Tract 752, Fairway Homes to read as follows:

"that all lots abutting the golf course shall maintain a minimum clear area of 20 feet adjacent to the golf course, with the exception of architectural features approved by the Community Development Department in Tract 752 or other Lemoore Municipal Golf Course subdivisions as requested by their independent homeowner's associations. No permanent structures shall be placed in the clear area and no recreation vehicles, boats, motorcycles or other vehicle shall be stored or parked within the clear area. No temporary structure will exceed 100 square feet in area".

Staff is further directed to insure that the CC&R's for the Tract are also amended to include this modification to the subdivision and allow the amending of other CC&R's if requested by other golf course subdivisions as well.

Passed and adopted at a Regular Meeting of the Lemoore City Council held on the _____ day of _____, 2007, by the following vote:

AYES:
NOES:
ABSTAINING:
ABSENT:

APPROVED:

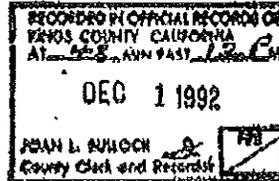
John Murray, Mayor

ATTEST:

Nanci C.O. Lima, City Clerk

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RECORDING REQUESTED BY:
City of Lemoore
WHEN RECORDED RETURN TO:
City of Lemoore
119 Fox Street
Lemoore, CA 93248



DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
PARCEL MAP 9204
CITY OF LEMOORE

WHEREAS the City of Lemoore, being the record owner of the following described property:

a 65.37 acre portion of assessor's parcel no. 24-082-58, located southwest of the intersection of Iona Avenue and Eighteenth Avenue in the City of Lemoore and comprised of parcels 1, 2, and 3 and a remainder parcel of parcel map no. 9204.

WHEREAS the owner desires to hold and maintain the said property, to the extent it is subdivided and thereafter developed for residential uses, as a desirable residential neighborhood and for the benefit of the said owner and its successors and assigns, declares that all deeds, conveyances, encumbrances and written instruments of whatsoever kind and character, all and singular, hereinafter made or executed affecting the title to or right to occupy said lands and premises shall be subject to the following limitations and restrictions:

1. TERM. These covenants shall run with the land and shall be binding upon the owner and all parties and persons claiming under it for a period of forty years from the date hereof, after which the said covenants shall be automatically extended for successive periods of ten years; however, these covenants may be amended from time to time when an instrument in writing, signed by a majority of the owners of said properties, including the owner of the remainder parcel, has been signed and recorded, setting forth the change in said covenants.

2. ACCESS RESTRICTION. No lot or property located on or within parcels 1, 2, or 3 shall have direct access to the remainder parcel, which remainder parcel shall be operated and maintained as a public golf course. All lots abutting, adjoining or otherwise contiguous to the remainder parcel shall be improved with fencing which is constructed and designed so as to prevent access to or

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from the remainder parcel. All access to the remainder parcel will be from publicly owned streets.

3. **CLEAR STRIP.** All lots or properties lying within parcels 1, 2, or 3 shall be developed and improved so as to maintain a minimum clear strip of twenty feet in width adjacent to or abutting the length of the remainder parcel. No permanent structures, improvements or buildings of any kind shall be constructed, placed or located within the said clear strip and no vehicles of any type, including but not limited to recreational vehicles, boats, motorcycles or automobiles, shall be stored or parked within the said clear strip. Any temporary structure located within the clear strip shall not exceed one hundred square feet in size.

4. **RESTRICTION ON FENCING DESIGN AND MATERIALS.** All fencing and fencing materials erected on or near the property line separating the remainder parcel from parcels 1, 2, or 3 shall be approved by the City of Lemore Community Development Director and shall be designed in a way to compliment and enhance the open space nature of the golf course. Solid fences, wood fences and chain link fences will not be permitted. Fence designs may incorporate pilasters or posts and a solid base of no more than eighteen inches above adjacent grade. Preferred fencing materials include wrought iron (for open portions of the fence) and stone, decorative masonry or stucco (for solid portions of the fence).

5. **AIRSPACE EASEMENT.** The owner hereby reserves an easement, as hereinafter described, in the entire airspace over, above, and upon parcels 1, 2, and 3 of said parcel map, including any structures to be built thereon. The easement hereby reserved is appurtenant to and intended to benefit the designated remainder parcel. The said easement shall and may be used and is intended for the following purposes: the flight of golf balls through the air over said parcels, the entry of golf balls upon and/or across said parcels, and on or over any improvements constructed or to be constructed thereon, all as an incident to the normal and customary use of the remainder parcel as a municipal golf course. Any golf balls entering upon and occupying said parcels shall become the property of the owners of the respective parcels. Nothing herein is intended nor shall be construed to permit entry upon said parcels by any person using the remainder parcel, including but not limited to for purposes of retrieval of golf balls. This easement shall not be construed nor intended as a limitation on the construction of improvements on said parcels.

6. **NUISANCES.** No noxious, loud or offensive activity shall be carried on upon any lot or parcel nor shall anything be done thereon which may become or is an annoyance or nuisance to the neighborhood.

7. **ENFORCEMENT.** The owner of any parcel or lot within parcels 1, 2, or 3, or the owner of the remainder parcel, may

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enforce a violation or threatened violation of these declarations and restrictions by a proceeding at law or equity and may recover damages or obtain such court orders as may be necessary to carry out the purposes and intent of these declarations and restrictions.

8. ~~SEVERABILITY~~. Invalidation of any one of these covenants by judgment or court order shall in no way affect the other provisions, which shall remain in full force and effect.

DATED: 11-18-92

OWNER:
CITY OF LEMORE,
& municipal corporation

By *Allen Goodman*
Allen Goodman
City Manager

PUBLIC AGENCY ACKNOWLEDGEMENT

STATE OF CALIFORNIA)
COUNTY OF KINGS) ss.
CITY OF LEMORE)

On this 18th day of November, 1992 before me, Helen M. Murray, City Clerk, personally appeared Allen L. Goodman, known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument as the City Manager of the City of Lemore and acknowledged to me that the City of Lemore executed it.

Helen M. Murray
Helen M. Murray City Clerk



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END OF DOCUMENT

RESOLUTION NO. 9224
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMOORE
GRANTING APPROVAL OF PLANNED UNIT DEVELOPMENT NO. 9201
BY THE CITY OF LEMOORE

At a Regular Meeting of the City Council of the City of Lemoore duly called and held on 6-2-92, at 7:30 p.m. on said day, it was moved by Councilmember Martin, seconded by Councilmember Salyer and carried that the following Resolution be adopted:

WHEREAS, the City of Lemoore has submitted a Planned Unit Development Application No. 9201 for approval to develop property described as follows:

A 65.37 acre portion of Assessor Parcel No. 24-052-58 located southwest of Iona Avenue and 18th Avenue intersection and comprised of Parcel Nos. 1, 2, and 3 of Parcel Map No. 9204.

WHEREAS, the Planning Commission of the City of Lemoore conducted a Public Hearing on the above application as required by the City of Lemoore Municipal Code, it being established that all notice requirements as set forth in Section 9-15B-2C of the said code have been complied with; and

WHEREAS, on the basis of the application and the evidence submitted to the Planning Commission, the Planning Commission made the following findings specified in Section 9-15E-6E of the Lemoore Municipal Code:

1. That the proposed location of the Planned Unit Development is in accordance with the objectives of the Zoning Ordinance.
2. That the proposed location of the Planned Unit Development and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety and welfare or materially injurious to properties or improvements in the vicinity.
3. That the proposed Planned Unit Development will comply with each of the applicable provisions of Title 9 of the Municipal Code.
4. That the Planning Commission will review the specific site designs showing building placements, building heights, building setbacks, landscaping, etc., as per Section 9-15E-4D of the Lemoore Municipal Code to ensure that the standards of population density, site area and dimensions, site coverage, yard spaces, height of structures, distance between structures, off-street parking and

off-street loading facilities, landscaped areas and street design will produce an environment of stable and desirable character consistent with the objectives of the Zoning Ordinance and will not generate more traffic than the streets in the vicinity can carry without congestion and will not overload utilities.

5. That the combination of different dwelling types and/or variety of land uses in the development will compliment each other and will harmonize with existing and proposed land uses in the vicinity.

WHEREAS, the Planning Commission has recommended to the City Council to approve Planned Unit Development No.9201 subject to certain conditions; and

WHEREAS, the Environmental Impact Assessment No.9226 was prepared for the project and it was determined by the Planning Commission and the City Council that the project would not have any significant adverse effect on the environment if certain mitigation measures are taken; and

WHEREAS, the City Council did adopt a Mitigated Negative Declaration for this project upon a recommendation of the Planning Commission; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Lemoore approve Planned Unit Development Application No.9102 for the above described property subject to the following conditions:

1. That a 25 percent residential density bonus is granted and based on it the maximum number of dwelling units is restricted to 326.
2. That the residential densities and developments within the PUD shall be as follows:

PARCEL NO.	SIZE (ac.)	ALLOWABLE UNITS	DENSITY du/acre
1	7.76	77	
2	33.98	189	5.0
3	23.63	60	

3. That specific site designs showing building placements, building heights, building setbacks, etc., shall be submitted to the Planning Commission for its review and approval as per Section 9-15E-4D of the Lemoore Municipal Code.

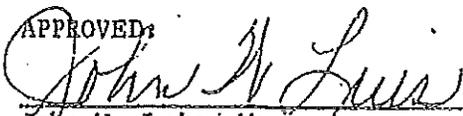
4. That no lot shall have direct access to the golf course. All lots abutting, adjoining or otherwise contiguous to the golf course shall have fencing that does not provide any access to golf course. All access to the golf course will be from public streets.
5. That all lots abutting the golf course shall maintain a minimum clear area of 20 feet adjacent to the golf course. No permanent structures shall be placed in the clear area and no recreation vehicles, boats, motorcycles or other vehicle shall be stored or parked within the clear area. No temporary structure will exceed 100 sq. ft. in area..
6. That all fencing contiguous to the golf course shall complement and enhance the open space nature of the site. Solid fences as well as wood or chain link materials, will not be allowed. Fence designs may incorporate pilasters or posts and a solid base no more than 18 inches above adjacent grade. Preferred materials or their equivalents, are:
 - Solid portion of fence:
 - Stone
 - Decorative Masonry
 - Stucco
 - Open portion of fence:
 - Wrought Iron

Fence design details will require approval of the Community Development Director/Planning Commission as part of the site plan review process.
7. That all properties within the Planned Unit Development are subject to golf course easement (Language will be provided by the City of Lemoore and shall be part of the final parcel map recordation).

Passed and adopted at a Regular Meeting of the City Council of the City of Lemoore held on the 2nd day of June, 1992, by the following vote:

AYES: Martin, Salyer, Norgaard, Lyon, Luis
NOES: None
ABSTAINING: None
ABSENT: None

APPROVED:



John W. Luis, Mayor

ATTEST:

Helen M. Murray
Helen M. Murray, City Clerk

CERTIFICATE

STATE OF CALIFORNIA)
COUNTY OF KINGS) ss.
CITY OF LEMOORE)

I, HELEN M. MURRAY, City Clerk of the City of Lemoore, do hereby certify the foregoing Resolution of the City Council of the City of Lemoore was duly passed and adopted at a Regular Meeting of the City Council held on June 2, 1992

DATED: June 4, 1992

Helen M. Murray
Helen M. Murray, City Clerk