

RESOLUTION NO. PC-2024-014

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ROSA MAKING FINDINGS AND DETERMINATIONS AND APPROVING A MODIFICATION OF THE FISTOR SUBDIVISION FINAL MAP FOR LOTS 1 AND 45, ALSO REFERRED TO AS 4301 AND 4500 FISTOR DRIVE, APNS 182-090-001, 182-090-045; FILE NUMBER MOD24-001

WHEREAS, an application was submitted requesting the approval of a Modification of Final Map to modify the side building setback lines for Lots 1 and 45 of the Fistor Subdivision to ensure the modified building setbacks lines would be consistent with the City's Scenic Road Combining District setback for Brush Creek Road. These two lots are also identified as 4301 and 4500 Fistor Drive, Assessor's Parcel Numbers 182-090-001, 182-090-045; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the application at which all those wishing to be heard were allowed to speak or present written comments and other materials; and

WHEREAS, the Planning Commission has considered the application, the staff report, oral and written, the General Plan and zoning on the subject property, the testimony, written comments, and other materials presented at the public hearing; and

WHEREAS, the Planning Commission is authorized under Government Code Section 66472.1 to approve an amendment to a Final Map during a public hearing if the local agency finds that there are changes in circumstances that make any or all of the conditions of the map no longer appropriate or necessary; and

WHEREAS, the Modification of Final Map request is exempt from further environmental review under the California Environmental Quality Act (CEQA) pursuant to the Class 5 exemption under CEQA 15305 for "Minor Alterations in Land Use Limitations" in that the project would not result in any changes in land use or density; and

NOW, THEREFORE, BE IT RESOLVED, that after consideration of the reports, documents, testimony, and other materials presented, and pursuant to City Code Chapter 19-40 (Corrections, Amendments or Modifications), the Planning Commission of the City of Santa Rosa finds in compliance with Section 19-24.080 (Findings for Approval):

- A. The proposed map is consistent with the General Plan and any applicable specific plans in that the proposed modification would not affect General Plan consistency. The existing low density residential land use is consistent with the General Plan, and the modification would not change this land use. There is no applicable specific plan.
- B. The proposed subdivision meets the housing needs of the City and that the public service needs of the subdivision's residents are within the available fiscal and environmental resources of the City in that the proposed modification would better meet the housing needs of the City in that it would allow for more developable lot area to accommodate

residential uses consistent with the Planned Development, Zoning Code and applicable State Housing legislation. The proposed modification does not impact the available fiscal and environmental resources of the City.

- C. The design of the proposed subdivision has, to the extent feasible, provided for future passive or natural heating or cooling opportunities in the subdivision in that the proposed modification does not affect the site's ability to provide opportunities for passive or natural heating or cooling.
- D. The proposed subdivision would not discharge waste into the City's sewer system that would result in violation of the requirements prescribed by the California Regional Water Quality Control Board in that the proposed modification would not affect the site's sewer discharge. Future development of the site would be required to comply with all discharge requirements prescribed by the California Regional Water Quality Control Board.

BE IT FURTHER RESOLVED, that after consideration of the reports, documents, testimony, and other materials presented, and pursuant to City Code Chapter 19-40 (Corrections, Amendments or Modifications), the Planning Commission of the City of Santa Rosa determines there are no grounds for mandatory denial in compliance with Section 19-24.090 (Grounds for Denial):

- E. *That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.* No grounds for denial in that the proposed modification would continue to be consistent with the City's General Plan and provide opportunities for development consistent with the low-density residential land use. There is no applicable specific plan.
- F. *That the site is not physically suitable for the proposed density of development.* No grounds for denial in that the proposed modification would allow for the properties to be developed at the density allowed by the City's General Plan.
- G. *That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.* No grounds for denial in that the proposed project does not include construction; therefore, there is no likelihood of any substantial environmental damage, to include substantial and avoidable fish or wildlife habitat.
- H. *That the design of the subdivision does not incorporate all mitigation measures as outlined in the certified environmental impact report or negative declaration.* No grounds for denial in that the Fistor Subdivision Final Map was approved in 1975 and was developed in compliance with all applicable mitigation measures. The proposed modification does not amend any of these measures. Future development would be subject to all required environmental review.
- I. *That the design of the subdivision or type of improvements is likely to cause serious public health problems.* No grounds for denial in that the proposed project does not

include construction. Any future development or improvements would be subject to all applicable codes related to public health.

- J. *That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision. No grounds for denial in that no easements of record are impacted by the proposed modification, no easements have been established by judgment of a court of competent jurisdiction, and no authority has been granted to a legislative body to determine the public at large has acquired easements for access through or use of property within the proposed subdivision.*

While an informal path has been created on the 4500 Fistor Drive property (APN 182-090-045) for connection to Brush Creek Road, there is no recorded easement for access on this property. The Citywide Creek Master Plan indicates a paved trail in this area could provide a more direct connection to Brush Creek Road. The Citywide Creek Master Plan Policy PR-2.2 also states that *“Every effort will be made to avoid exercising the power of eminent domain for the purpose of implementing the Plan. Where possible, the Plan includes an alternative (located within public right-of-way) to proposed improvements shown on private property. The alternative of choice would be determined at the time of Plan implementation. This determination would be made by decision-making bodies, considering recommendations by the Waterways Advisory Committee.”* A public right-of-way alternative is available in that all properties in the subdivision, including vacant properties, have existing sidewalks for a connection to Brush Creek Road. The Waterways Advisory Committee provided the following comment and recommendation at its May 23, 2024 meeting: a new paved trail should not be required on the 4500 Fistor Drive (APN 182-090-045) parcel, and support for the option of a paved trail from Cox Court to Brush Creek Road in a different location.

- K. *That the design of the subdivision, where the subdivision fronts upon a public waterway, river, or stream, does not provide, or have available, reasonable public access by fee or easement from a public highway to that portion of the bank of the river or stream bordering or lying within the proposed subdivisions. No grounds for denial in that the subject parcels do not front upon a public waterway, river or stream; therefore, no public access by fee or easement is required.*
- L. *That the design of the subdivision, where the subdivision fronts upon a public waterway, river, or stream, does not provide for a dedication of a public easement along a portion of the bank of the river or stream bordering or lying within the proposed subdivision. No*

grounds for denial in that the subject parcels do not front upon a public waterway, river or stream; therefore, no dedication of a public easement is required.

- M. *That the design of the subdivision or the proposed improvements is likely to result in or contribute to downstream property damage or injury due to storm water runoff.* No grounds for denial in that the proposed project does not include construction. Any future development or improvements would be subject to storm water requirements.

BE IT FURTHER RESOLVED, that this Modification of Final Map is subject to all applicable provisions of the Zoning Code, including Section 20-54.100 (Permit Revocation or Modification).

BE IT FURTHER RESOLVED that a Modification of Final Map for Lots 1 and 45 of the Fistor Subdivision Final Map, also identified as 4301 and 4500 Fistor Drive (APNs 182-090-001, 182-090-045, is approved subject to each of the following conditions:

#### **DEPARTMENT OF COMMUNITY DEVELOPMENT**

##### **GENERAL:**

1. Compliance with the latest adopted ordinances, resolutions, policies, and fees adopted by the City Council at the time of building permit review and approval. All fees must be paid prior to issuance of a building permit.
2. Modifications shall be in substantial conformance with those reflected on the Certificate of Modification exhibit dated June 24, 2024. Prior to recordation, revisions shall be implemented, as required in the DAC Report dated June 20, 2024.
3. The City Engineer shall execute a Certificate of Modification in a form consistent with Exhibit A, attached hereto and incorporated herein.

##### **PLANNING DIVISION:**

1. **NATURAL RESOURCES:**
  - A. **Advisement.** The applicant, its successors, heirs, assigns or transferees are advised in writing that this approval or permit prior to the start of any construction may be subject to certain other clearances, approvals, permits, or authorizations by state and/or federal agencies. The applicant shall acknowledge in writing receipt of the above advisement.
  - B. **Mitigation requirement.** The City's approval or permit is valid only if the applicant, its successors, heirs, assigns or transferees, comply with the terms, conditions and mitigations set forth in any clearance, permit or approval except that any permit condition or mitigation that requires

project redesign shall trigger a review by the City of Santa Rosa Director of Community Development to determine if the project as redesigned is consistent with the original approval. A project that the City determines is not consistent with the City approval shall not be granted subsequent entitlements, such as approval of improvement plans and final maps, but excluding grading or building permits of any type. Such a project would have to be resubmitted to the City and reviewed by the City as a new project, including the submittal of a new application and fees.

- C. Power to stop work if violation occurs. Nothing in this approval shall prevent the City of Santa Rosa from exercising its power to stop work in instances where a violation of state or federal law is brought to the City's attention.

### **ENGINEERING DIVISION:**

1. Developer's engineer shall obtain the current City Design and Construction Standards and the Community Development Department's Standard Conditions of Approval dated August 27, 2008 and comply with all requirements therein unless specifically waived or altered by written variance by the City Engineer.
2. The final preparation and recordation of the proposed final map modification shall comply with all codes, polices and standards associated with the preparation and recordation of subdivision final maps.
3. Development of the parcels is subject to the proposed final map modification and shall comply with the latest adopted ordinances, resolutions, policies, and fees adopted by the City Council at the time of building permit review and approval. All fees must be paid prior to issuance of a building permit.
4. Modifications shall be the same as those reflected on the final amended map, dated received on June 24, 2024, except as modified by the following conditions.
5. The City Engineer shall execute an amended Final Map in a form consistent with this DAC Report.
6. In addition, the following summary constitutes the recommended conditions of approval on the subject application/development based on the plans submitted/stamped received June 24, 2024.

### ***Engineering Conditions for Parcel and Easement Dedications***

1. The proposed Certificate of Modification shall be revised prior to recordation as

follows:

- a. The label referring to BUILDING ENVELOPE shall be changed to BUILDING SETBACK LINE (BSL).
- b. The label referring to EDGE PAVEMENT shall be changed to EDGE OF PAVEMENT (EP).
- c. The BSL shall be memorialized on the Certificate of Modification consistent with City Code, City Standards, and to the satisfaction of the City Engineer or their designee during plan check.
- d. The Certificate of Modification shall have a note stating that, *“Building and Encroachment Permits for Lots 1 and 45 are subject to the following:*
  - i. *“The frontages along both Brush Creek Road and Fistor Drive appurtenant to the site shall be to current City Standards and be ADA compliant or shall be brought up to current City Standards and ADA compliance prior to issuance of said Building Permit.*
  - ii. *“If at the time of Building and/or Encroachment Permit application there is no Engineering Design Standard for Brush Creek Scenic Road the lot or lots shall be allowed via a public improvement variance to install a 5-foot minimum width meandering sidewalk along Brush Creek Road. Replacement meandering sidewalk shall match existing width.”*

BE IT FURTHER RESOLVED, that the Planning Commission finds and determines this entitlement would not be granted but for the applicability and validity of each and every one of the above conditions and that if any one or more of the above said conditions are invalid, this entitlement would not have been granted without requiring other valid conditions for achieving the purposes and intent of such approval.

REGULARLY PASSED AND ADOPTED by the Planning Commission of the City of Santa Rosa on the 22<sup>nd</sup> day of August 2024 by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

APPROVED: \_\_\_\_\_  
KAREN WEEKS, CHAIR

ATTEST: \_\_\_\_\_  
JESSICA JONES, EXECUTIVE SECRETARY

Exhibit A: Certificate of Modification, Dated June 24, 2024

RECORDING REQUESTED BY:

Dimensions 4 Engineering, Inc.  
2952 Mendocino Ave. Ste."C"  
Santa Rosa, CA 95403

WHEN RECORDED RETURN TO::

Planning & Economic Development  
Engineering Development Services  
100 Santa Rosa Avenue, Room 5  
Santa Rosa, CA 95404

APN 182-090-045 & 182-090-001

City of Santa Rosa  
Planning & Economic  
Development Department  
06/24/2024  
RECEIVED

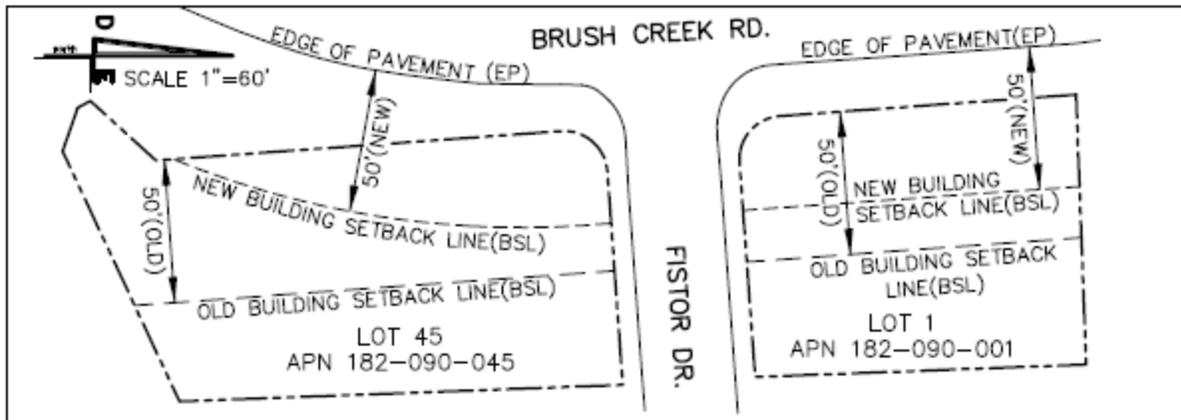
EXEMPT CA SB2 FEE PER GC27388.1(a)(2)(c) OR (d);  
EXECUTED OR RECORDED BY GOVERNMENT AGENCY

RECORDER PLEASE NOTE: This Document Must Be Cross Referenced

CERTIFICATE OF MODIFICATION

NOTICE IS HEREBY GIVEN THAT: Sheet 3 of the map entitled "Fistor Subdivision", filed in Book 224 of Maps at pages 21 - 23, Sonoma County Records is modified as follows:

The westerly building setback line for Lot 1 & 45 shall be 50 feet measured parallel with and perpendicular to the easterly edge of Brush Creek Road pavement. (See diagram)



The owner of record affected by this modification is Patrice Lenore Fistor, Successor Trustee of the Exemption Trust under the William Walter Fistor and Mary Eleanor Fistor Trust Agreement dated 07/06/88 as described in Document No.2023-049204 Sonoma County Records.

Building and Encroachment Permits for Lots 1 and 45 are subject to the following:

- i. The frontages along both Brush Creek Road and Fistor Drive appurtenant to the site shall be to current City Standards and be ADA compliant or shall be brought up to current City Standards and ADA compliance prior to issuance of said Building Permit.
- ii. If at the time of Building and/or Encroachment Permit application there is No Engineering Design Standard for Brush Creek Scenic Road the lot or lots shall be allowed via a public improvement variance to install a 5-foot minimum width meandering sidewalk along Brush Creek Road. Replacement meandering sidewalk shall match existing width.

This Certificate of Modification is pursuant to City of Santa Rosa Planning Commission Resolution No. \_\_\_\_\_

This Certificate of Modification was prepared by me or under my direction in conformance with the Subdivision Map Act and local ordinance.

  
Gary Splerings, PLS 8082  
6/24/24  
Date



This Certificate of Modification conforms with the requirements of the Subdivision Map Act and local ordinance.

\_\_\_\_\_  
Jason Nutt, City Engineer  
\_\_\_\_\_  
Date

