



COUNTY OF PLACER
Community Development Resource Agency

John Marin, Agency Director

PLANNING

Michael J. Johnson
Planning Director

MEMORANDUM

TO: Honorable Board of Supervisors

FROM: Michael J. Johnson, Planning Director

DATE: February 5, 2008

SUBJECT: **THIRD-PARTY APPEAL – PLANNING COMMISSION APPROVAL OF THE PENRYN TOWNHOMES PLANNED RESIDENTIAL DEVELOPMENT (PSUB-T20060767)**

ACTION REQUESTED

The Board is presented with an appeal filed by Michael Sasko from the decision by the Planning Commission to approve a Tentative Subdivision Map and Conditional Use Permit for the Penryn Townhomes Planned Residential Development. Staff recommends that the Board deny the appeal and uphold the decision of the Planning Commission.

PROJECT DESCRIPTION

The 3.2-acre project site is located approximately one-quarter of a mile north of Interstate 80 on the east side of Penryn Road, between Interstate 80 and Taylor Road. The planned residential development would include 23 townhomes within seven separate one- and two-story buildings, as well as three common ownership lots. Lot A would include open space areas, walking and equestrian paths, and landscaping along the project's frontage and perimeter. Lot B is located within the center of the project and would be utilized as a passive recreation area, including tables, benches, and decomposed granite trails. Lot C would include the interior loop road, parking areas, and trash enclosures. Each residential unit would be a separate lot (zero lot line) established by special setbacks to the front of each unit, the face of the garage, and for each building from the overall parcel boundaries. Approval of the project requires the Board approve the Mitigated Negative Declaration prepared for the project (Attachment F), a Tentative Subdivision Map, and a Conditional Use Permit, as is required for Planned Developments. Per Section 17.52.070 of the Placer County Code, the combined -DC (Design Scenic Corridor) zoning applicable to this project also requires administrative design review.

PENRYN MUNICIPAL ADVISORY COUNCIL ACTION

The Penryn Municipal Advisory Council reviewed this proposal at its July 24, 2007 meeting and voted unanimously (4-0) to recommend denial of the project. In a letter dated August 1, 2007 (Attachment H) the MAC stated that the project does not adhere to "the spirit of the Penryn/Horseshoe Bar Community Plan" and that any project within the Penryn Parkway should benefit the residents of the area. Comments voiced at the MAC meeting also included concerns that the project disregards the direction for proposed development of the area as outlined in the Horseshoe Bar/Penryn Community Plan, proposes too high a density for the area, will create excessive traffic impacts, lacks adequate open space,

is in close proximity to surrounding residences, and concerns that multi-family residential uses are not allowed in commercial zone districts located within the Penryn Parkway area of the Community Plan.

PLANNING COMMISSION ACTION

On October 11, 2007, the Planning Commission considered the project. Seven members of the public provided comments to the Planning Commission, one of which was in support of the project. The majority of the speakers expressed their concern that the project conflicts with the Horseshoe Bar/Penryn Community Plan. Specifically, the public voiced concerns that the density of the project is too high for the area, that there is no commercial component, that the project would create impacts resulting from population growth, that the project does not include adequate open space area or recreation facilities, and that the configuration of the project does not allow for adequate parking and driveways.

After receiving public testimony and discussing the project, the Planning Commission approved the project as proposed by the applicant on a 3-2 vote (Santucci and Brentnall voting no, Severson and Denio absent). In reaching this decision, the majority of the Planning Commission determined that the proposed project was consistent with densities permitted by the Horseshoe Bar/Penryn Community Plan. Additionally, the majority concluded that, while no driveways are proposed with the project, there is no requirement in the Placer County Code to mandate the provision of driveways. It was noted that there are existing residential developments in Placer County that have no driveways, and the County has not had any problems with illegal parking at these developments. The Planning Commissioners who voted against the project stated that, while the density was in conformance with the Community Plan, the proposed project was not the proper density or design for the project site.

LETTER OF APPEAL

On October 19, 2007, a third-party appeal of the Planning Commission action was filed by Michael Sasko (Attachment A). The appeal was accompanied by a petition supporting the appeal signed by approximately 100 residents in the community. The appellant contends that the project is a violation of the Horseshoe Bar/Penryn Community Plan, that the proposed project is too dense and is functionally flawed, that the development design compromises public safety and access for the disabled, and that the cumulative impact resulting from this project and others being proposed in the Penryn area is not being addressed.

RESPONSE TO APPEAL LETTER

To ensure that each assertion set forth in the appeal letter is responded to, staff has prepared a specific response for each issue raised by the appellant.

The project is in violation of the Horseshoe Bar/Penryn Community Plan.

The appellant asserts that the project is in violation of the Horseshoe Bar/Penryn Community Plan. The appellant and other members of the community have made the assertion that multi-family residential uses were not assumed for the Penryn Parkway based upon wording contained in footnotes on Page 16 of the Horseshoe Bar/Penryn Community Plan. These footnotes provide the *assumptions* that were used when the potential density was forecast for the Horseshoe Bar/Penryn Community Plan, but these assumptions do not create a policy prohibiting multi-family residential in the commercial zone districts in the Penryn Parkway area. There is no such policy contained within the Community Plan. To the contrary, in the Community Plan there are many references to the inclusion of multi-family housing within the Penryn Parkway area.

The Horseshoe Bar/Penryn Community Plan identifies the Penryn Parkway as a highway-service oriented retail area which allows for a variety of residential uses, including multiple-family residential uses (Penryn Parkway Development Policies, Policy "e", page 81). The Horseshoe Bar/Penryn Community Plan also identifies the Penryn Parkway as an area that will benefit from Planned Developments and includes policy that requires multiple-family residential structures to be clustered

together in such a way as to preserve the maximum amount possible of undeveloped open space on-site (Penryn Parkway Development Policies, Policy "i", page 81). The project proposes to cluster seven buildings on-site in a manner that would preserve open space, native trees, and two natural rock outcroppings. A landscape corridor over 450 feet in length along Penryn Road would also be provided in accordance with Penryn Parkway Development Policy b (Plan Page 81). The proposed multi-family use is consistent with both the "Penryn Parkway" land use designation and underlying C1-UP-DC (Neighborhood Commercial, combining Use Permit, combining Design/Scenic corridor) zone district.

After listening to the concerns of the residents, the Planning Commission concluded that the proposed project did not violate the Horseshoe Bar/Penryn Community Plan and that the proposed project was consistent with the permitted uses for this site. On this basis, the Planning Commission adopted a motion to approve the proposed project.

The proposed project is too dense and is functionally flawed.

The appellant asserts that the proposed project is too dense and is functionally flawed, citing Policy "d" of the Penryn Parkway Development Policies (page 81), which states that development shall be of a "relatively low density", and Policy "s" (page 18) of the goals set forth in the Land Use section of the Community Plan, which addresses the need for adequately sized lots within subdivisions in the Plan area. The appellant also states that the project is too dense because the Community Plan only intended one high-density area, which is located on Auburn-Folsom Road. The letter submitted cites Section 5, Land Use Designations, Item "e", (page 25) which describes the purpose and intent of the High Density Residential land use designation for the Community Plan.

Policy "d" (page 81) states that development in the Penryn Parkway area shall be of a *relatively* low density. The proposed project includes the construction of 23 townhomes on 3.2 acres, which amounts to a density of 7.2 dwelling units per acre. The number of units that would be allowed by the base zoning, without a Planned Development, is 69 units (21.6 dwelling units per acre). Development constraints such as setbacks, parking/circulation requirements, and natural features make it unlikely this number of units could actually be achieved. However, under Section 17.54.100 (Planned Residential Developments) of the Zoning Ordinance, the maximum number of units that could be constructed on this site with a Planned Development is 55 units, or 17.2 dwelling units per acre. Based on the fact that the project proposes a density of 7.2 dwelling units per acre when up to 17.2 dwelling units per acre is allowable, the project is consistent with the requirement that development be of a *relatively* low density.

Policy "s" of the Land Use section of the Community Plan (page 18) requires lots in subdivisions to be "adequate in size and appropriate in shape for the range of primary and accessory uses which are typical for the area..." while not creating a feeling of overcrowding, the need for variances, measurable environmental impacts, and while not violating the goals and policies of the Community Plan. The proposed project would create 23 separately lots that include the townhome and the associated patio. The Planned Development Ordinance allows for the establishment of setbacks in the Conditional Use Permit for the project. In this case, all buildings will meet the setback requirements of the base zone district. Additionally, the proposed project will create lots that are adequate in size and appropriate in shape for typical townhome/multi-family uses, and will not create a feeling of overcrowding nor will the project create measurable environmental impacts. The Planning Commission concluded the proposed project does not violate the goals and policies of the Community Plan, and is consistent with all applicable requirements set forth in the Placer County Zoning Ordinance, including density, parking requirements, open space requirements, and development standards.

Section 5, Land Use Designations (page 24) sets forth a description of the "purpose and intent" of each of the land use designations in the Community Plan area. The proposed project is designated as Penryn Parkway in the Community Plan, not High Density Residential. The Penryn Parkway land use

designation states that the implementing zoning will provide the mechanism for development in the Parkway. Depending on the specific zone district, the permitted density may be higher than that set forth in other areas with different land use designations, including high density residential. However, as noted above, the proposed project is developed at a density (7.2 units per acre) that is lower than that permitted on the site (17.2 units per acre).

The proposed project compromises public safety and access for the disabled.

The appellant asserts that the proposed project compromises public safety and access for the disabled, as the roadways would not accommodate wheelchair ramps on certain vehicles and the project does not provide adequately sized parking spaces. Additionally, the appellant states that the project compromises the safety and access for the disabled, citing sidewalk deficiencies in the project, excessive slope in one area, and difficult access for the elderly. Finally, the appellant asserts that the project will provide an unsafe environment as emergency vehicles will have limited access and local law enforcement will be overburdened with monitoring parking violations in the development.

The proposed project is required to comply with all applicable Federal, State, and local regulations including but not limited to the Federal Americans with Disabilities Act, Title 24 of the California Code of Regulations, and Placer County Code, as these regulations relate to access for the disabled. Specifically, the project will comply with Section 17.54.050(B)(2) of the Placer County Code (minimum requirements for the number of disabled parking spaces) and Section 17.54.070(E)(2) (location and design of disabled spaces) by providing a minimum of three accessible spaces. The proposed project must also comply with all Placer County Building Codes, which is based on State-mandated building codes, as these codes relate to multi-family residential uses. As currently designed, the proposed project will meet all access requirements for disabled persons.

The proposed project is also required to comply with the requirements imposed by the Penryn Fire Protection District, including the provision for 20-foot-wide (minimum) access driveways and 25-foot-wide minimum interior roadways with designated "no parking" to ensure access and passing of fire apparatus. An emergency vehicle access road is also required, capable of supporting a 40,000 pound emergency vehicle under all weather conditions. A formal will serve letter will be required by the Penryn Fire District to ensure compliance. The proposed project has been reviewed by the Penryn Fire Protection District, and the District determined that the proposed design provides adequate circulation throughout the project.

The proposed project does not address cumulative impacts of projected growth in the Penryn area.

The appellant asserts that the proposed project does not address cumulative impacts of projected population growth in the Penryn area that would result from the construction of the proposed project as well as other proposed projects in the area. This issue is also raised in the letter of Kristina D. Lawson of Miller Starr Regalia, dated January 7, 2008.

It has been determined that these 23 residential units would not have any impacts that are cumulatively significant. This project is consistent with the zoning allowed on the site as originally proposed in the Horseshoe Bar/Penryn Community Plan when it was adopted in 1994.

Traffic is one of the types of impacts that results in clear offsite effects, so traffic impacts can become cumulatively considerable over time. At the time the current the Horseshoe Bar/Penryn Community Plan was adopted, an FEIR was certified for that Plan. It was determined in that document (Draft and Final Impact Report for the Horseshoe Bar/Penryn Community Plan, certified on August 16, 1994, SCN 1993042026 incorporated by reference herein) that all two-lane roadway segments within the Plan area would operate at LOC "C" or better with the exception of portions of Sierra College Blvd., Auburn-Folsom Road and Taylor Road. With mitigation requirements, the overall increase in traffic was

determined to be less-than-significant after adoption of the Plan. In compliance with the mitigation requirements for adoption of the Plan, the County adopted a traffic limitation zone fee for the Horseshoe Bar/Penryn area.

In 2005, the County updated the Horseshoe Bar/Penryn Community Plan to review transportation needs, current population and housing (although no major changes in land use were proposed), update air quality, water and wastewater service information and update the cumulative impacts analysis. Among other things, the County certified another EIR (Final Program Impact Report for the Horseshoe Bar/Penryn Community Plan, certified on June 28, 2005, SCN 1993042026—incorporated by reference herein) which updated traffic projections and assessed future roadway needs to 2020. No new mitigation measures were recommended. This project will pay the appropriate traffic zone fee and construct the appropriate road frontage improvements. Any incremental contribution to traffic caused by this project will be within the scope of impacts analyzed when the Horseshoe Bar/Penryn Community Plan was adopted.

Other proposed projects in the area at the present time include the Penryn Heights subdivision, located near the intersection of English Colony Way and Taylor Road, the Orchard at Penryn, located 1500 feet north of Interstate 80 on the west side of Penryn Road, the Penryn Mixed Use project, located directly adjacent to the Penryn Townhomes project to the north, the Penryn Park Subdivision, which has been approved and is currently under construction, located on Boyington Road west of Interstate 80, Penryn Self Storage, located on the south side of Interstate 80 at the southeast corner of Penryn Road and Boulder Creek Road, and Morgan's Orchard at Secret Ravine, located on the south side of Interstate 80 approximately at the northwest intersection of Penryn Road and Secret Ravine. Since 2005, when the Community Plan EIR was updated, one project has been approved that included a Rezone, which was the Penryn Park Subdivision. As a result of the Rezone, the project included the construction of 85 residential units where approximately 260 could have been permitted under the previous zoning. Additionally, of the six projects currently proposed in the Penryn Parkway, four include a request for a Rezone of the property. If approved as proposed, these projects will result in an additional 118 units within the Penryn Parkway area, which is a reduction of five units below what could currently be allowed with the existing zoning. The result of the projects proposed within the Penryn Parkway, including the Penryn Townhomes, would result in a net reduction in the number of units constructed in the Penryn Parkway area in comparison to what was analyzed in the Horseshoe Bar/Penryn Community Plan. When analyzed along with future projects in the area, which are reasonably anticipated to occur, there is no evidence this project's contributions are in any way cumulatively considerable to any other types of impacts.

In considering the proposed project and its associated environmental document along with proposed future projects in the area, the environmental document reduces all impacts, including any potential cumulative impacts, to a less than significant level. On this basis, the Board should approve the Mitigated Negative Declaration for the project.

RESPONSE TO ADDITIONAL COMMENTS

Letter from Kristina D. Lawson of Miller Starr Regalia, dated January 7, 2008

Subsequent to the Planning Commission's action on October 19, 2007, a letter (Attachment I) was received from Kristina D. Lawson of Miller Starr Regalia, a law firm representing "a number of concerned citizens" regarding the Penryn Townhomes project. The letter was received by the Planning Department on January 7, 2008. The letter asserts that the findings required for approval of a Conditional Use Permit are not supported by substantial evidence, stating that the findings included in the staff report included only "boilerplate or conclusory findings" that restate Placer County Code requirements, and do not include evidence to support the findings. The letter goes on to identify five specific findings that are allegedly not supported by substantial evidence.

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To insure clarity in the approval process, the Findings for the project have been revised to include a separate set of findings for the Conditional Use Permit and the Planned Development, each of which contains additional substantial evidence from the record. These Findings, along with the CEQA findings, are attached to this staff report (Attachment D). Additionally, staff has responded to Ms. Lawson's assertions that the following five findings are not supported by substantial evidence.

1. The project is not consistent with all applicable provisions of the Placer County Code

- *The Findings provided include a "hybrid" of the findings required for a Conditional Use Permit and a Planned Development, and the findings are not supported by evidence from the record*

The recommended Findings prepared by staff and approved by the Planning Commission combine the required Findings for a Conditional Use Permit and the additional findings required for a Planned Development. As was stated above, the recommended Findings for the project have been revised to include separate Findings for the Conditional Use Permit and Planned Development, each of which is supported by additional substantial evidence from the record. While formatted in a different manner, these Findings are consistent with the Findings adopted by the Planning Commission. These revised Findings are included in this staff report.

- *The project fails to comply with design and development standards regarding density*

The letter states that "because the proposed Project density fails to comply with mandatory provisions of the Placer County Code, the conditional use permit may not be issued." Ms. Lawson asserts that the project does not meet Policy "d" of the Penryn Parkway Development Policies (page 81), which states "Development shall be of a relatively low density, low profile type, and the signing and lighting provided shall reflect such a policy; specifically, building height is to be restricted to a maximum of two-stories. The area's historical nature (i.e., Japanese heritage, gold rush era, English settlement) should be reflected as much as possible in the design of new buildings to be constructed within the Penryn Parkway area." Ms. Lawson's letter asserts that the project is not of "relatively low density" as it proposes a density of 7.2 dwelling units per acre, whereas the Horseshoe Bar/Penryn Community Plan's "density definitions" identify anything over four dwelling units per acre as high-density.

As was addressed previously in this report, the number of units that would be allowed by the base zoning, without a Planned Development, is 69 units (21.6 dwelling units per acre), however, development constraints, such as setbacks, parking/circulation requirements, and natural features make it unlikely that that number would actually be achieved. Per Section 17.54.100 "Planned Residential Developments" of the Zoning Ordinance, the maximum number of units that could be constructed on this site with a Planned Development is 55 units (17.2 dwelling units per acre). Based on the analysis of the potential density that could be developed on the project site, as allowed by the base zoning without a Planned Development (which is 21.2 dwelling units per acre) and as allowed as a Planned Development, which is 17.2 dwelling units per acre, the Planning Commission concluded that the 23-unit project is in compliance with Policy "d" of the Penryn Parkway Development Policies contained in the Horseshoe Bar/Penryn Community Plan.

2. The project is not consistent with all applicable provisions of the Placer County General Plan and the Horseshoe Bar/Penryn Community Plan

- *Project is inconsistent with various Community Plan goals*

The letter states that the project is not consistent with "various IIBPCP Community Goals", and specifically identifies only Goal 4 of the General Community Goals (page 3), which seeks to "Provide for residential development which creates functional, attractive, cohesive neighborhoods

which are reasonably integrated with adjoining neighborhoods rather than physically isolated from their surroundings." In her letter, Ms. Lawson states that the project does not further this goal and that it "will create a walled neighborhood in the middle of a commercial zone."

Based on an analysis of existing and proposed development within the immediate project area, the Planning Commission concluded that the proposed project will in fact create a functional, attractive, cohesive neighborhood that is integrated with existing development and will be integrated with future development in the area. While the subject parcel is zoned commercial, the specific zone district authorizes residential and commercial uses, and the Penryn Parkway was established to provide for mixed residential and commercial uses within that area.

The project does not propose to construct any walls, other than the three noise barriers that will be required to surround the patio area of three of the units in proximity to the Interstate 80 corridor. The exterior of the project would be surrounded with landscape buffers and open space lots, and the south/southeast and north boundaries of the project would be delineated with tubular steel fencing in order to meet the intent of this Community Goal. Consistent with the Community Plan, no masonry walls or other barriers will be constructed along Penryn Road. Additionally, the project includes paths throughout the interior of the project as well as a sidewalk and meandering path along the project frontage to ensure that the project is integrated with existing and future development in the area.

- *Project does not meet intent of Planned Developments in the Community Plan*

The letter states that the use of Planned Developments in the Penryn Parkway area was "authorized for the purpose of provid[ing] a transition between future commercial uses within the Parkway and adjoining rural residential uses." The letter goes on to state that the project does not provide for such a transition and therefore does not comply with this provision in the Community Plan and, as such, cannot be approved because it does not comply with Section 17.54.080B.3 of the Zoning Ordinance, which requires all Planned Developments to be "consistent with goals and policies of the Placer County General Plan, or any applicable specific or community plan."

The section of the Horseshoe Bar/Penryn Community Plan that is referenced in the letter (page 19) simply identifies Planned Developments as a useful tool in the development of the Penryn Parkway area, stating: "PUDs (i.e., Planned Developments) within the Penryn Parkway area will provide a transition between future commercial uses within the Parkway and adjoining rural residential uses." The Community Plan does not set forth a requirement that Planned Developments provide a transition; rather, the Community Plan simply recognizes that Planned Developments provide a means of allowing for such a transition. The Planning Commission concluded that the project design allowed for an appropriate transition not only with the existing commercial development to the south, but also with any future development to the north.

- *Project is inconsistent with Placer County General Plan*

In her letter, Ms. Lawson states that the project is not consistent with development standards set forth in the Placer County General Plan, and references Table I-2 (page 17, PCGP). The table referenced sets forth development standards based on each Land Use Designation within the Placer County General Plan. These Land Use Designations do not apply to the proposed project, as the project is located within the Horseshoe Bar/Penryn Community Plan area, and that document takes precedence over the General Plan. The land use designation that applies to the proposed project site is Penryn Parkway, and specific development standards for this land use designation are found in the Horseshoe Bar/Penryn Community Plan, not the Placer County General Plan.

3. The project will be detrimental to the health, safety, peace, comfort, and general welfare of people residing in the neighborhood and to property or improvements in the neighborhood

Ms. Lawson states that her clients and other area residents have provided evidence to the County that the proposed project will be detrimental to their health, safety, peace, comfort, and general welfare. The letter specifies that the project would be detrimental to the general welfare of "many residents of the Penryn area." However, no specific evidence is provided to articulate how the project will harm residents.

Based on comments received from the public and an analysis of the project, the Planning Commission found no evidence that the proposed project would be detrimental to the health, safety, peace, comfort, and/or general welfare of people residing in the neighborhood, or to property or improvements in the neighborhood. The project is located just north of Interstate 80, in an area that is currently sporadically developed with commercial and residential uses. Based on an analysis of aerial photographs, the nearest single-family residence appears to be located approximately 900 feet northwest of the project site, on the opposite side of Penryn Road.

4. The project is inconsistent with the character of the immediate neighborhood and contrary to the neighborhood's orderly development

The letter states that the proposed project is not consistent with the character of the immediate neighborhood and contrary to the neighborhood's orderly development, and goes on to say that the Penryn Parkway is intended as a commercial area.

Section 5, Land Use Designations, item "i", of the Horseshoe Bar/Penryn Community Plan (page 25) identifies the Penryn Parkway as an area that is "unique to this Plan area as a land use designation." The Community Plan states that the Penryn Parkway is "meant to provide a mixed-use area, including multiple-family residential, professional office, and commercial uses." The proposed project is consistent with the character of the immediate neighborhood, as the character of the neighborhood is intended to be a mixed-use, commercial and residential area. The neighborhood within the project area consists of existing commercial and multi-family uses, with additional commercial and multi-family residential uses proposed. The project would not be contrary to the neighborhood's orderly development as the development of the project will include improvements that will link the project to existing and future development within the Penryn Parkway, creating a cohesive, accessible, mixed-use area.

5. Substantial evidence in the record supports a fair argument that the project will have a significant effect on the environment

- *The County's environmental review of the impacts to oak woodlands is fundamentally flawed*

The arborist report prepared for the project identified protected trees that measured 6" DBH (diameter at breast height) or greater, as that was the requirement at the time the arborist report was prepared. As a result of Ms. Lawson's letter, the arborist report has been revised to reflect an analysis of protected trees that measure 5" DBH or greater, in order to meet the current requirements set forth in the California Environmental Quality Act. Staff consistently works with project applicants to minimize the impacts to trees and natural resources as a result of a project. Where trees cannot be preserved mitigation is required on an inch for inch basis per state law, which includes trees that measure 5" DBH or greater. The arborist report prepared during the environmental review process provides an estimate of the number and type of trees to be removed, however the ultimate calculation of the number of trees and total inches of trees to be removed and mitigated is based on the site specific construction plans prepared for the project. As such, the mitigation requirement for protected trees 5" DBH or greater that are impacted as a result of the

proposed project will include on-site replacement on an inch-for-inch basis where possible, or payment of an in-lieu fee on an inch for inch basis. This mitigation is in compliance with state law.

- *The MND identifies that the project may result in incompatible land uses*

The letter states that the Mitigated Negative Declaration identifies "that the project may result in development of incompatible uses or the creation of land use conflicts." Ms. Lawson bases this assertion on her reading of a sentence on page 4 of the Mitigated Negative Declaration that states "The site is bound on the south and east by a parcel that is developed with commercial retail uses and on the north by an existing plant nursery." This sentence does not identify "that the project may result in development of incompatible uses or the creation of land use conflicts"; rather, this sentence simply provides a description of the project's surroundings for the purposes of analyzing potential aesthetic impacts. Ms. Lawson has concluded, based on her reading of that sentence, that the project may result in development of incompatible uses or the creation of land use conflicts; however the project is proposed in an area identified for development of a commercial and residential mixed-use area, which, by definition, includes a mix of commercial/retail and residential uses. Staff does not concur with Ms. Lawson's conclusion that the construction of multi-family residential housing adjacent to commercial and retail uses in an area specifically identified as a mixed-use area constitutes land use conflicts or the creation of incompatible uses. Further, any land use conflicts identified in the Mitigated Negative Declaration would be addressed in the Land Use and Planning section of the document. In this section the Mitigated Negative Declaration (Section IX., Land Use Planning, item #4, page 18) clearly states that the proposed project will result in no impacts regarding land use conflicts and incompatible land uses.

The Planning Commission concurred with the findings of the environmental analysis that the project will not result in incompatible land uses, as the project proposes multi-family residential housing in an area that has been identified in the Community Plan for mixed-use commercial and residential uses. Further, the proposed project includes landscape and open space areas around the perimeter of the project that will provide for adequate separation between uses, while allowing the uses to remain in close proximity, as is the goal of commercial/residential mixed-use areas.

- *The MND falsely concludes that the project does not conflict with applicable General/Community Plan policies*

The letter states that, based on the discussions contained elsewhere in the letter, the project clearly conflicts with General and Community Plan policies, as well as zoning requirements, and that the MND is flawed as it concludes there are no such conflicts.

Based on the information discussed above in this staff report, the Planning Commission concluded that the Mitigated Negative Declaration is accurate and correct, and that the project does not conflict with any applicable policies set forth in the Horseshoe Bar/Penryn Community Plan, the Zoning Ordinance, or other applicable policies.

- *The MND contains no discussion of potentially significant cumulative impacts*

The Mitigated Negative Declaration prepared for this project states that the project will not create impacts that are individually limited, but cumulatively considerable. This determination was made based on a review of the proposed project along with future projects that are proposed within the project area, and an analysis of the Horseshoe Bar/Penryn Community Plan. As more fully discussed on pages 4 and 5, above, the Horseshoe Bar/Penryn Community Plan was updated in June 2005 to incorporate information contained in the Southeast Placer Circulation

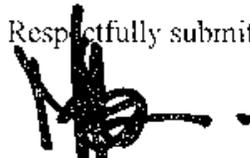
Element to update transportation and circulation information and to the Recreation Element to update recreation and trails information. The Board also certified the FEIR prepared for the Community Plan to address the changes mentioned above and to update the previously-certified FEIR. Ms. Lawson's asserts that significant cumulative impacts from noise, public services and facilities, growth inducing effects, traffic (fully discussed above), air quality and climate change. Her letter contains nothing but conclusory statements and presents, no evidence that there are either significant combined impacts from this project and other projects proposed for the Horseshoe/Bar Community Plan area, or that this project's incremental effect is cumulatively considerable.

The proposed project, along with anticipated future projects in the area, will not in create impacts that are in excess of those impacts identified and addressed in the prior environmental documents prepared for the Horseshoe/Bar Community Plan, as originally adopted and updated.

RECOMMENDATION

As noted above, the Planning Commission considered each of the issues raised by the appellant, and the Planning Commission concluded there were no merits to any of the issues raised. On this basis, the Planning Commission approved the proposed project. Staff recommends that the Board of Supervisors deny the appeal and uphold the Planning Commission's approval of the Tentative Subdivision Map, Conditional Use Permit and Mitigated Negative Declaration for the Penryn Townhomes Planned Residential Development, subject to the following findings:

Respectfully submitted,



MICHAEL J. JOHNSON, AICP
Planning Director

ATTACHMENTS:

- Attachment A - Planning Appeal received October 19, 2007
- Attachment B - Vicinity Map
- Attachment C - Reduced Copy of Tentative Map
- Attachment D - Project Findings
- Attachment E - Approved Conditions of Approval (PSUB-T20060767)
- Attachment F - Adopted Mitigated Negative Declaration (PSUB-T20060767)
- Attachment G - Mitigation Monitoring Program
- Attachment H - Letter from Penryn MAC, dated August 1, 2007
- Attachment I - Letter from Miller Starr Regalia dated January 7, 2008
- Attachment J - Community Correspondence

cc: Michael Sasko, Appellant
George Djan, Uhora Engineering and Planning, Inc., Applicant
Ed Benoit, Penryn 3.2 Investors, LLC, Property Owner

Copies sent by Planning:

- Wes Zicker - Engineering and Surveying Division
- Rick Eiri - Engineering and Surveying Division
- Rebecca Taber - Engineering and Surveying Division
- Leslie Lindbo - Environmental Health Services
- Brent Backus - Air Pollution Control District

Vance Kimbrell - Parks Department
Christa Darlington - County Counsel
Scott Finley - County Counsel
Holly Heinzen - County Executive Officer
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Subject/chrono files

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