



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: January 8, 2008

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

ACTION REQUESTED

The Board is being asked to consider a third-party appeal from Michael Sasko of the Planning Commission's approval of a Tentative Subdivision Map and Conditional Use Permit for the Penryn Townhomes Planned Residential Development. It is staff's recommendation that the Board uphold the decision of the Planning Commission and deny the appeal.

BACKGROUND

At its October 11, 2007 meeting, the Planning Commission considered a Tentative Subdivision Map, Conditional Use Permit and Mitigated Negative Declaration for the development of 23 townhomes in seven separate buildings, three open space lots, interior roadways, and associated parking. After receiving public testimony, the Planning Commission adopted a motion to approve the project as proposed by the applicant (3-2 vote, Commissioners Santucci and Brentnall No).

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. The MAC's decision was based on the assertion that multi-family residential uses are not allowed in commercial zone districts located within the Penryn Parkway area of the Horseshoe Bar/Penryn Community Plan. As discussed later in this report, staff does not concur with this determination of the MAC.

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 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.

LETTER OF APPEAL

On October 19, 2007, a third-party appeal was filed by Michael Sasko, accompanied by a petition supporting the appeal that is signed by just over 100 residents in the community. The appellant is challenging the Planning Commission's approval of the Tentative Subdivision Map and Conditional Use Permit for the Penryn Townhomes Planned Development. As set forth in the letter of appeal, the appellant states 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. (Attachment A, Appeal Letter).

RESPONSE TO APPEAL LETTER

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

Issue 1 - Appellant asserts that the project is in violation of the Horseshoe Bar/Penryn Community Plan.

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 (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 (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 (Policy b, 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. The Planning Commission concluded that the proposed development does not pose any conflicts between the Horseshoe Bar/Penryn Community Plan, Placer County Zoning Ordinance, and Placer County Code as asserted by the appellant.

The appellant has made the assertion that multi-family residential uses were not assumed for the Penryn Parkway based upon specific footnotes contained in the Horseshoe Bar/Penryn Community Plan (Page 14). Although these footnotes provide the *assumptions* that were used when the potential density was forecast for the Horseshoe Bar/Penryn Community Plan, the assumptions do not set forth a requirement or policy prohibiting multi-family residential in the commercial zone districts in the Penryn Parkway area. There is no such policy contained within the Horseshoe Bar/Penryn Community Plan.

After listening to the concerns of the appellant and other 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.

Issue 2 - Appellant asserts that the proposed project is too dense and is functionally flawed.

The proposed project is consistent with the requirements set forth in the Placer County Zoning Ordinance for Planned Residential Developments, including density, parking requirements, open space requirements, and development standards. The maximum number of units allowed in a Planned Development on this site is approximately 55, based on the maximum number of allowable units within the base zone district. The proposed project includes 23 units, which is a reduction of 32 units from the maximum allowable. As per Section 17.54.100 (C)(2) of the Placer County Code, the proposed project requires 52 parking spaces. The proposed project includes 32 garage spaces and 30 off-street parking spaces, for a total of 62 parking spaces. Per Section 17.54.100 (3) of the Placer County Code, the proposed project is required to provide 45 percent of the project as open space; as approved by the

Planning Commission, the proposed project includes 47 percent of the site retained as open space. Additionally, the project meets all development standards set forth in the Zoning Ordinance regarding site coverage, setbacks, and maximum allowable height.

Issue 3 - Appellant asserts that the proposed project compromises public safety and access for the disabled.
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. Section 17.54.050(B)(2) of the Placer County Code provides minimum requirements for the number of disabled parking spaces, and Section 17.54.070(E)(2) specifies location and design. 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. No development would be permitted until these obligations are met.

The proposed project must also 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.

Issue 4 - Appellant asserts that the proposed project does not address cumulative impacts of projected growth in the Penryn area.

A Mitigated Negative Declaration was prepared for the proposed project pursuant to the California Environmental Quality Act and it was determined that 23 residential units would not have any impacts that are cumulatively considerable. With the incorporation of all mitigation measures, all identified impacts are reduced to less than significant levels.

In considering the proposed project and its associated environmental document, the Planning Commission concluded the environmental document did in fact reduce all impacts, including any potential cumulative impacts, to a less than significant level. The assertion that the proposed environmental document did not adequately address environmental impacts was raised before and considered by the Planning Commission, and the Planning Commission found no merit in the assertions. On this basis, the Planning Commission took action to approve the Mitigated Negative Declaration for the project.

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:

RECOMMENDED FINDINGS:

CEQA

The Planning Commission has considered the proposed Mitigated Negative Declaration, the proposed mitigation measures, the staff report and all comments thereto and hereby adopts the Mitigated Negative Declaration for the project based upon the following findings:

1. A Mitigated Negative Declaration has been prepared for this project in compliance with CEQA. With the incorporation of all mitigation measures, the project is not expected to cause any significant, negative impacts. Mitigation measures included will address potential impacts related to biological resources, cultural, historical, and archaeological resources, geology and soils, water quality, hazardous materials, noise, and traffic.
2. There is no substantial evidence in the record as a whole that the project would have a significant effect on the environment.
3. The Mitigated Negative Declaration as adopted for the project reflects the independent judgment and analysis of Placer County, which has exercised overall control and direction of its preparation.
4. The mitigation plan prepared for the project is approved and adopted.
5. The custodian of records for the project is the Placer County Planning Director, 3091 County Center Drive, Suite 140, Auburn CA, 95603.

Conditional Use Permit for a Planned Residential Development

1. The proposed use and development of the property as a Planned Development subdivision, together with the provisions for its design and improvements, are consistent with objectives, policies, general land uses and programs as specified in the Placer County General Plan and the Horseshoe Bar/Penryn Community Plan as well as with all applicable provisions of the Placer County Code. These include consistency with goals and policies relating to the use of planned developments to retain/protect natural features on site and subdivision design to provide for the least amount of site disturbance and greatest amount of open space.
2. The proposed Planned Development subdivision is consistent with respect to the purposes of a Planned Development in that it will further the public health, safety, peace, morals, comfort, and general welfare by addressing the simultaneous needs of the County for: protecting environmentally sensitive areas; preserving natural resources; and conserving visual and aesthetic resources.
3. The proposed Planned Development subdivision varies from the base zoning. Under the base zoning, approximately 55 multi-family residential units would be permitted on the property. The Planned Development designation allows for sale of individual units and parcels with alternative development standards. The project includes 23 units. Use of the Planned Development designation is justified by the dedication of open space and landscape areas (Lots A and B) to be held in common ownership of a Homeowners' Association, for the benefit of Placer County.
4. The proposed Planned Development subdivision includes two open space lots totaling 1.5 acres in size, which preserves sensitive site features (existing native oak trees and rock outcroppings) within these lots. The proposed open space exceeds the requirements pursuant to Article 17.54.100 (2)(d) of the Placer County Code. The open space lots will be held in common ownership of a Homeowners' Association, for the benefit of Placer County.
5. The proposed Planned Development subdivision has been designed in a manner such that adequate public services and vehicular traffic controls are provided. In addition, the proposed Planned Development's open space and landscaped amenities provide protection of natural resources and passive recreational and visual enjoyment.

6. The proposed Planned Development subdivision is not suitable for the construction of on-site recreational facilities because of the relatively small size of the parcel and the topography of the parcel, as well as the configuration of the project, which was designed to avoid impacts to as many trees as possible and to retain the rock outcropping. The Planning Commission hereby finds that the requirement for such facilities, at the expense of removing more trees and rock outcroppings, is not warranted.
7. The proposed Planned Development subdivision is physically suitable for the type and proposed density of development. The proposed Planned Development provides for townhomes, which are consistent with the character of approved developments and designated land uses in the immediate neighborhood and will not be contrary to its orderly development.
8. The proposed Planned Development subdivision benefits the community by preserving 1.5 acres of open space, which incorporates sensitive site features (trees and rock outcroppings), and providing pedestrian and equestrian trails along the project frontage. The design and proposed improvements will reduce environmental damage in that, with the incorporation of the open space lots the project will avoid the removal of and impacts to protected trees and natural features on-site. The proposed Planned Development does not result in any adverse impacts to the community, and the benefits provided make the Planned Development the superior method of development on-site.
9. The establishment, maintenance or operation of the proposed use as a Planned Development subdivision will not be detrimental to the health, safety, and general welfare of people residing or working in the neighborhood of the proposed use, and will not be detrimental or injurious to property or improvements in the neighborhood or the general welfare of the County.
10. The proposed use as a Planned Development subdivision will not generate a volume of traffic beyond the capacity of roads providing access to the use, consistent with the applicable requirements of the Placer County General Plan and the Horseshoe Bar/Penryn Community Plan.

Tentative Subdivision Map

1. The proposed subdivision, together with the provisions for its design and improvement, is consistent with the Placer County General Plan and with applicable County Zoning Ordinances in that the proposed lots meet the minimum size for the respective zoning districts and the proposed use is consistent with the goals and policies of the General Plan.
2. The site of the proposed Planned Development subdivision is physically suitable for the type and proposed density of development in that the proposed lots will be compatible with neighboring parcels in the immediate vicinity.
3. The design and proposed improvements of the proposed Planned Development subdivision are not likely to cause substantial environmental damage or public health problems, in that they have been designed such that tree removal and grading is limited to road improvements and building sites for each lot. The implementation of Best Management Practices and erosion control methods will further reduce any adverse impacts to any wetland or riparian areas on site and in the surrounding area.
4. The design of the proposed Planned Development subdivision will not conflict with any public easements for access to or across the project site.

Respectfully submitted,

MICHAEL J. JOHNSON, AICP
Planning Director

ATTACHMENTS:

- Attachment A - Planning Appeal received October 19, 2007 (Supporting Document & Petition)
- Attachment B - Vicinity Map
- Attachment C - Reduced Copy of Tentative Map
- Attachment D - Approved Conditions of Approval (PSUB-T20060767)
- Attachment E - Adopted Mitigated Negative Declaration (PSUB-T20060767)
- Attachment F - Mitigation Monitoring Program
- Attachment G - Letter from Penryn MAC, dated August 1, 2007
- Attachment H - Correspondence

cc: Michael Sasko, Appellant
George Djan, Ubora 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
- Michael Johnson - Planning Director
- John Marin - CDRA Director
- Subject/chrono files

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