

County of Placer
Planning Department

BOARD SUBMITTAL COVER SHEET

TO: Board of Supervisors

FROM: Michael Johnson, Planning Director

DATE: April 3, 2006

SUBJECT: **APPEAL - VILLAS AT HARBORSIDE – CONDITIONAL USE PERMIT AND
VARIANCE (PCPC 2005 0680) / MITIGATED NEGATIVE
DECLARATION/SUBDIVISION MAP MODIFICATION (PEAQ 2005 0136)**

SUMMARY:

The Board of Supervisors is being asked to consider an appeal from Jane Echlin of the Planning Commission's September 22, 2005 approval of the Villas at Harborside project. The project consists of nine, two-story units that will be utilized as time-share residences. The proposed project requires the approval of a Conditional Use Permit and a Variance, along with a Subdivision Map Modification (that will reflect the reduced setback) to allow for the development of the project.

Subsequent to the publication of the Public Hearing Notice for this project, staff received a letter from David H. Blackwell, legal counsel for the appellant, stating that it was the appellant's desire to withdraw the appeal. As set forth in Section 17.60.110(D)(5) of the Placer County Code (Withdrawal of Appeal - Hearing Decisions), an appeal may not be withdrawn except with the consent of the appropriate hearing body (i.e., the Board of Supervisors). Accordingly, there are two actions before the Board:

- Whether or not to consent to accepting the withdrawal of the appeal; or
- If the Board chooses not to accept the withdrawal of the appeal, the Board will need to consider the merits of the appeal.

CEQA COMPLIANCE:

A Mitigated Negative Declaration (PEAQ 2005 0136) has been prepared for this project and has been finalized pursuant to California Environmental Quality Act (CEQA). On September 22, 2005, the Planning Commission found that the project had satisfied the requirements of CEQA, and approved a Mitigated Negative Declaration in conjunction with the project approval.

FISCAL IMPACT: None

RECOMMENDATION:

Staff recommends the Board consider accepting the appellant's request to withdraw the appeal. Should the Board desire to hear the appeal, staff recommends the Board of Supervisors deny the appeal and uphold the Planning Commission's approval of the project.

MEMORANDUM
County of Placer
Planning Department

TO: Honorable Board of Supervisors

FROM: Michael Johnson, Planning Director

DATE: April 3, 2006

SUBJECT: APPEAL - VILLAS AT HARBORSIDE – CONDITIONAL USE PERMIT AND VARIANCE (PCPC 2005 0680) / MITIGATED NEGATIVE DECLARATION/SUBDIVISION MAP MODIFICATION (PEAQ 2005 0136)

BACKGROUND:

The project comprises three parcels, Lots 2, 3, and 4 of the Harborside at Homewood Subdivision, which was approved in January 1996. The subject property is situated between State Route 89 and Lake Tahoe in the Homewood area. Westshore Café is south of the site, and Homewood Ski Resort is across the highway to the west of the property. The subject property is currently undeveloped. The site had previously been used as the site for the "Westshore Café", and prior to that Tourist Accommodation Units existed on-site. The Westshore Café was later relocated to Lot 6 of the Harborside at Homewood Subdivision. A project similar to one being proposed was recently approved on Lot 5 and the buildings are nearing completion.

This project was initially presented to the North Tahoe Regional Advisory Council (NTRAC) on July 14, 2005. Some of the issues discussed at that meeting were impacts to the view corridor, tree preservation, and parking (parking design and traffic flow). Because the item was not scheduled as an action item, the Council provided no formal recommendation to the Planning Commission on this project.

The proposed project was conditioned by the Planning Commission at its September 22, 2005 meeting. After receiving public testimony, the Planning Commission unanimously approved the Conditional Use Permit, Variance, Map Modification, and Mitigated Negative Declaration for the project.

PROJECT DESCRIPTION:

The proposed project will consist of nine, two-story units that will be utilized as time-share residences. Each unit will have up to four interval ownerships for a maximum of 36 interval ownerships. Development rights will be transferred to the project from eight tourist accommodation units (TAU) and one existing residential unit. Based upon current County requirements, the project needs a Conditional Use Permit and a Variance, along with a Subdivision Map Modification that will reflect the reduced setback to allow for the development of the project.

ENVIRONMENTAL REVIEW:

A Mitigated Negative Declaration (PEAQ 2005 0136) has been prepared for this project and has been finalized pursuant to California Environmental Quality Act (CEQA). On September 22, 2005, the Planning Commission found that the project had satisfied the requirements of CEQA, and approved a Mitigated Negative Declaration in conjunction with the project approval.

LETTER OF APPEAL:

On October 3, 2005, an appeal of the Planning Commission approval was filed by Jane Echlin. The appeal asserts that legally inadequate notice, inconsistency with local planning regulations, and inability to make the findings for the variance and map modification as the bases that the Planning Commission decision should be overturned.

The applicant's attorney has contested the appellant's standing to appeal based on Section 17.60.110(b) of the Zoning Ordinance. At the request of the applicant and concurrence of the appellant, the issues of standing to appeal and the merits of the appeal were separated for the December 6, 2005 Board of Supervisors hearing. After considering staff's recommendation and public testimony, the Board decided the appeal would be heard at a future hearing. The Board suggested the project be presented to NTRAC (if practical) prior to the appeal being heard.

The project returned to NTRAC on February 9, 2006, at which time additional opportunity for public input on the project was provided. Several individuals spoke in support of the project was provided, speaking to positive impacts to the community/economy resulting from the proposed project. Others expressed concern over the project, particularly related to potential impacts to the view corridor and parking issues.

One of the issues discussed was the status of the project application to TRPA. On January 5, 2006, the TRPA had issued the second incomplete notice for the project submittal. The applicant represented to NTRAC that they had submitted the information requested by TRPA earlier that morning (February 9, 2006).

Staff contacted TRPA on March 15, 2006 to inquire about the status of the TRPA application. TRPA indicated that, while the applicant has provided additional information, the project remains incomplete pending the review of the re-submittal.

ANALYSIS OF ISSUES

Below are brief summaries and staff responses to the substantive issues listed in Ms. Echlin's appeal. Staff's response to each item is in italics.

Notice of the Planning Commission Hearing Was Legally Inadequate

The late discovery of the need for a Final Map Modification and the decision to hear the item on September 22, 2005 resulted in the lack of a published notice in the Tahoe newspaper for the Map Modification action. However, notice was properly given to all property owners within 300 feet, and was posted in various locations as required for the Conditional Use Permit and Variance application. All notice requirements were also met for the Mitigated Negative Declaration. The only modification needed on the Final Map is to correspond to the Variance, which was properly noticed. Notice of this hearing as well as the previous Board hearing has since been posted in the Tahoe World, thereby satisfying the newspaper-posting requirement.

The Project is Inconsistent With Local Planning Regulations

1. The appellant cites a portion of the Mitigated Negative Declaration that states that the Project "does not comply with a number of the design requirements for parking areas described in the design guidelines for the area as well as the Zoning Ordinance."

The Mitigated Negative Declaration that was prepared for this project identified that the project did not meet certain design standards and/or requirements. These design deficiencies could be reduced to a less than significant level through the approval of a Variance. A section of the staff report for the Planning Commission analyzed the Variance request to the two parking standards, the setback distance for the carport structure(s), and the fence height limitation (see Exhibit 2). The

Planning Commission agreed with the analysis provided by staff and adopted the findings that were contained in the staff report for the Project.

The Planning Commission's decision was based, in part, on the following circumstances: 1) reducing the front setback for parking and structures would allow for the retention of mature trees that would screen the use from view; 2) the parking design variations are appropriate as the use of the parking lot will be limited to residents/guests of nine units; and 3) the fence height variance is appropriate due to high pedestrian uses along the frontage of the site, and the open rail design avoids the look of a solid fence.

2. The appellant states: "The Project is also inconsistent with the General Plan's scenic corridor requirements". The appeal cites a portion of the Mitigated Negative Declaration, claiming that this document recognizes that the Project will significantly impact the scenic qualities of the area. The appellant proceeds to raise concern over the Planning Commission reducing the setbacks for the project and the impact this may have on the scenic qualities.

The Mitigated Negative Declaration does state that the Project will result in a significant impact as compared to the existing site conditions. The site is currently unimproved. However, the project site is located in a Commercial/Tourist zoning designation. Virtually any development that is permitted in this zoning designation would result in a significant impact to the aesthetics for this area as compared to leaving the site unimproved. Mitigation measures described in the environmental document that are imposed on the Project reduce those impacts to a less than significant level.

The setbacks that were reduced by the approved Variance were related to the distance to the first parking stall (which is required by the Zoning Ordinance for safety concerns, not scenic impacts) and for the corners of the proposed carports to extend into the front setback a maximum of six-feet. The Planning Commission agreed with the analysis provided by staff that the Variance approval would allow for the preservation of several large trees. Furthermore, the report mentions the landscape areas available along the highway to effectively screen the carports from public view, thereby addressing any potential adverse impact upon this scenic corridor.

The Variance Approval Did Not Comply with State Law

The appeal provides discussion of the findings that are required to be made for variances, stating that the findings either were not or could not be made. The appellant draws attention to the finding of special circumstances for the Variance, the consistency with the General Plan, and that the Planning Commission did not show how the strict application of the zoning requirements would create a unique or undue hardship on the Project proponent.

The Planning Commission adopted the findings contained within the staff report that was prepared for that hearing (Exhibit 2). Those findings meet the requirements of State law for the approval of variances. Each of the variance requests was discussed at the hearing and findings of special circumstance (as well as the other required findings) were adopted by the Planning Commission.

The special circumstances cited include the location of several mature trees that the applicant is preserving to the maximum feasible extent, proximity to Lake Tahoe which further limits site design options, the small size of the three parcels, and the heavy pedestrian use along the road frontage. The Planning Commission concluded, that special circumstances did in fact exist to justify the granting of a Variance, and findings were adopted as required by State law.

The Map Amendment Did Not Comply With State Law

The appellant states that the Planning Commission did not make the findings required for an amendment to a recorded Final Map.

The required findings for the approval of an amendment to a final map were contained within the staff report prepared for the Planning Commission hearing, and were adopted by the Planning Commission.

The appeal also questions whether the project can be approved to allow three houses on each lot without the approval of a new subdivision map.

Timeshares that are a residential design are listed as a use that is permitted with the approval of a Conditional Use Permit within this zoning classification. A new subdivision map is not required to allow for the proposed project.

RECOMMENDATION: Staff recommends the Board consider accepting the appellant's request to withdraw the appeal. Should the Board desire to hear the appeal, staff recommends the Board deny the appeal and uphold the Planning Commission's decision to approve the Villas at Harborside project.

Respectfully submitted,



MICHAEL J. JOHNSON, AICP
Planning Director

MJ:SB:KH

ATTACHMENTS:

- Exhibit 1 – Appeal
- Exhibit 2 - Planning Commission Staff Report and Attachments
- Exhibit 3 –Conditions of Approval
- Exhibit 4 – Appellant's Request to Withdraw the Appeal

cc: Jane Echlin – Appellant
David Antanucci - Applicant
North Tahoe Regional Advisory Council

Copies sent by Planning:

- Mike Foster – Public Works Department
- Roger Davies – Environmental Health Services
- Dave Vintze – Air Pollution Control District
- Bob Reiss - Building Department
- Bill Schulze - Building Department
- Christa Darlington– County Counsel
- Michael Johnson – Planning Director
- Bill Combs – Principal Planner
- Allen Breuch – Supervising Planner
- Subject/chrono files
- Steve Buelna – Associate Planner
- North Tahoe Regional Advisory Council