

CALAVERAS COUNTY COMMUNITY DEVELOPMENT AGENCY

Planning Department

891 Mountain Ranch Road, San Andreas, CA 95249
(209) 754-6394

Staff Report

Hearing Date	August 3, 2006
Project Number/Name	2004-203 Marina Villa Townhomes
Supervisory District Number	5
Assessor's Parcel Number(2)	64-029-26, 64-029-27
Planner	Don Ratzlaff, Planner II
CDA Staff Report	Stephanie Moreno, Community Development Director

Date: July 21, 2006

Project Description: The applicants are requesting concurrent approval of the following:

1. Tentative Subdivision Tract Map to subdivide about 10.0± acres into twenty (20) townhouse units, on or about 1.4± acres, each with 2 car garages, along with a lake level recreation deck.
2. Zoning Amendment from C2-PD (General Commercial-Planned Development) to R3-PD (Multi-Family Residential-Planned Development).
3. Conditional Use Permit and Planned Development Permit to authorize development.

Additional Project Clarification: Approximately 8.6 acres of the parcel is under water. The townhomes are proposed to be built on top of a horizontal pier structure (decking) built on pilings over the submerged portion of the property. The action being requested by the applicants is for concurrent approval of the following:

1. Conditional Use Permit to build residential structures, as required by the C2-PD zoning.
2. Planned Development Permit to regulate the design aspects of the proposed project.
3. Zoning Amendment from C2-PD (General Commercial-Planned Development) to R3-PD (Multi-Family Residential-Planned Development), as a mitigation condition of the requested Conditional Use Permit; and
4. Tentative Subdivision Tract Map to subdivide about 10.0± acres into twenty-one lots, with twenty (20) townhouse units and one common area parcel. There is approximately 1.4 acres of dry land, most of which is being used for parking and driveways. Each townhouse unit will include 2 car garages, along with a lake level recreation deck.

Applicant/Owner:

Merle and Beverly Homan
DBA Merle Holman Enterprises
P.O. Box 1507
Oakdale, California 95370

Agent:

Don Grover Architectural Group
171 N. Washington Street, Suite B
Sonora, California 95370

Location: The property is located at 7430 O'Byrnes Ferry Road, immediately north of the Poker Flat Lodge, on Lake Tulloch, about 7 miles southeast of Copperopolis. (APN 64-029-26 and 64-029-27 are portions of the Northwest ¼ of Section 32, T1N, R13E, MDM).

Existing General Plan Designation: Community Development Lands-Community Center-Copper Cove / Poker Flat area.

Existing Zoning District(s): C2-PD (General Commercial-Planned Development) [ZA No. 981, Ordinance No. 1181].

Environmental Review Status: Incomplete.

CDA Staff Recommendation: Forward a recommendation to the Board of Supervisors that they deny the project without environmental clearance, based upon findings of inconsistency with the General Plan as set

forth in the staff analysis.

County Department and Public Agency Comments Received: Correspondence from various County departments and other public agencies addressing specific development issues regarding the proposed use of the property is contained in the project file and will be considered if the project continues through the process.

General Correspondence: Correspondence from various organizations and members of the public addressing specific development and environmental issues regarding the proposed use of the property is contained in the project file and will be considered if the project continues through the process.

INTRODUCTION

When a proposed project is inconsistent with adopted policies, the Community Development Agency may decide to bring the project to the Planning Commission for consideration of a denial recommendation to the Board of Supervisors, without Environmental review. This approach provides an opportunity for the Planning Commission and the Board of Supervisors to consider identified policy issues and to determine (1) whether such an application must be denied based upon those inconsistencies, thereby avoiding the time and expense of the completion of the environmental review, or (2) whether any such application should be directed for complete processing, including environmental review.

A Planning Commission recommendation and Board direction prior to the preparation of the Environmental Impact Report could potentially save applicants, the public and the County time and money in the continued processing of such proposals, which cannot be approved. A Board decision to direct staff to complete processing for later consideration would not indicate how the Board might ultimately vote upon the project during a subsequent public hearing, but rather indicate only that the Board is not opposed to considering such a proposal with complete environmental review at a later date.

PROJECT DESCRIPTION

This project proposes to subdivide about 10.0± acres into twenty-one lots, with twenty (20) townhouse units and one common area parcel. There is approximately 1.4 acres of dry land, most of which is being used for parking and driveways; the other 8.6 ± acres are under water. Each townhouse unit will include an attached 2-car garage and a private boat dock, with additional boat docks for guest use. The proposed project will extend from approximately 80 to 120 feet over the lake as measured from the 515 foot elevation.

The site's existing General Commercial-Planned Development zoning designation allows a wide variety of commercial or mixed uses, although all uses are subject to an approved Planned Development (PD) permit and some uses require an additional Conditional Use Permit (CUP). Multi-family residential uses, including townhome structures, are permitted in this zone district subject to approval of both types of permits; however, the applicant has agreed to rezoning of the property to R3-PD, which will limit the property to residential use, as a mitigation condition of the requested conditional use permit.

SITE AND SURROUNDING USES

Flood Zone: The project area is located in zone "A", which is an area determined to be a special flood hazard area inundated by 100-year flood, according to HUD/FEMA mapping criteria, along with Zone "X", which is an area determined to be outside the 500 year flood plain according to mapping criteria, 060633-0350B, dated September 5, 1990. No base flood elevation was determined by HUD/FEMA. The maximum water elevation of the Tulloch Reservoir is 515 feet, which is consistent with the flowage easement.

Environmental Setting:

The property is located on the south side of O'Byrnes Ferry Road, about ½ mile southwesterly of the Lake Tulloch bridge and approximately 200 feet northeast of the Lake Tulloch Resort. The site currently is vacant land, with minimal vegetation and no native trees. There are a couple of existing docks along with a couple of floatation platforms on the lake itself. Topography is gentle sloping, ranging from 2% to

12% throughout the site. A man made rock wall at the water's edge is the location of a few existing non-native trees.

Services Available:

Water: Calaveras County Water District (CCWD)
Sewer: Calaveras County Water District (CCWD)
Fire District: Copperopolis Fire Protection
Power: Pacific Gas and Electric
Telephone: Calaveras Phone Co.

Adjacent Land Uses and Zoning:

North: A1 (General Agriculture), 2 parcels ranging in size from 40± to 81± acres. Both parcels lie northerly of O'Byrne's Ferry Road.

South: Lake Tulloch Reservoir.

East: A1 (General Agriculture), 2 parcels ranging in size from 2.5± to 6.0± acres.

West: C2-PD (General Commercial-Planned Development), 6 parcels ranging in size from 0.4± to 0.96± acres.

RECOMMENDATION

Forward a recommendation to the Board of Supervisors that they deny the project without environmental clearance, based upon findings of inconsistency with the General Plan as set forth in the staff analysis.

Staff recommends a recommendation of denial of the project because the proposed use is inconsistent with adopted General Plan policies of the Calaveras County Board of Supervisors. State Law and County Code require finding of consistency with the General Plan in order to approve development projects (Ca Gov't Code 65860, 66474a, Calaveras County Codes Title 16 & 17).

Environmental clearance is incomplete for this application. The Draft Initial Study was circulated and comments received from a variety of county agencies, other public agencies, private organizations and members of the public, copies of which are attached to this report. Based upon the comments received, an Environmental Impact Report (EIR) will be required to complete the processing of the application.

If the Planning Commission agrees with the staff analysis and recommendation, the Planning Commission should forward a recommendation to the Board of Supervisors that the Board deny the project without environmental clearance, based upon findings of inconsistency with the General Plan as set forth in the staff analysis.

If the Planning Commission does not concur with the staff analysis and recommendation, staff recommends the Planning Commission forward a recommendation to the Board of Supervisors that the Board find the use is consistent with the General Plan and direct staff to continue processing the application and complete an Environmental Impact Report for the project.

ANALYSIS

The following points summarize staff's main reasons for recommending denial of the proposed project:

1. *The project is not consistent with the Board of Supervisors' adopted policy relative to density use and transfer.*

Evidence: The initial application for the proposed project was submitted on December 17, 2004, and deemed complete for processing on January 12, 2006. Applicable policies for this project are those in effect at the time the application is deemed complete.

Evidence: The Board of Supervisors, at a regular Board meeting held on April 4, 2005, approved a density transfer policy limiting the transfer of density from lands without a demonstration of actual buildable density, including lands under water. Not only does this project have the majority of its land under water, but the portions of land beneath the shoreline of Lake Tulloch Reservoir are not designated as *Community Center* and therefore should not have any allowable density for development or transfer purposes.

2. *The project is not consistent with the County's General Plan Goal V-6A*

Evidence: Policy V-6A "To preserve and protect the scenic qualities of the County" is applicable to this proposed development. This goal is addressed by the following implementation policies:

Implementation Measure V-6A-1 New development shall be encouraged to avoid extreme topographic modification, and may be required to restore natural contours and vegetation of the land after grading or other land disturbances

Implementation Measure V-6A-2 Cluster development with preservation of open space of scenic quality shall be encouraged.

Implementation Measure V-6A-3 New development shall be encouraged to be designed in a manner which is sensitive to available natural resources.

In this case, the development will create a significant change in the natural scenic views and is contrary to the policy. The use of clustering will create extreme topographic modification; the project attempts to avoid and magnify the scenic impacts rather than reduce impacts as intended by the policy.

ENVIRONMENTAL REVIEW

Pursuant to Section 15270 of the CEQA Guidelines, CEQA does not apply to projects which a public agency rejects or disapproves. An Environmental Impact Report would be required for completion of environmental clearance under CEQA for the Board of Supervisors to consider approval of the project.