

OFFICIAL RECORD

Requested By:
DOUGLAS COUNTY/CLERKS OFFICE

Assessor's Parcel Number: N/A

Date: MARCH 20, 2009

Recording Requested By:

Douglas County - NV
Karen Ellison - Recorder
Page: 1 of 7 Fee: 0.00
BK-0309 PG-4924 RPTT: 0.00



Name: CAROL, CLERK'S OFFICE

Address: _____

City/State/Zip: _____

Real Property Transfer Tax: \$ N/A

MINUTE ORDER #2009.060

(Title of Document)

FILED

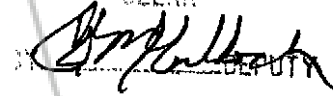
NO. 2009.060

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MINUTE ORDER
LYNN PETERSON PLANNED DEVELOPMENT (PD) 08-006

Applicant: LYNN PETERSON
Board Meeting Date: March 19, 2009

TED THUAN
CLERK



The Board of Commissioners has granted tentative approval of the map with conditions of approval and the findings pursuant to NRS 278A.500.1-7, which are made part of Douglas County code chapter 20.676.010 as follows:

FINDINGS FOR A PLANNED DEVELOPMENT

Pursuant to County Code, Section 20.676.040, the following findings must be met for approval of the PD:

1. *The plan is consistent with the statement of objectives of a PD contained in the Master Plan and in Title 20.*

Staff Response: Pursuant to Section 20.676.010, the PD Overlay is intended to provide a method of comprehensive planning for smaller, less complex development projects than are typically processed with a specific plan, and which meets one or more of the following criteria:

1. *The project site contains topographic constraints, environmental resources, or other features which require special planning consideration;*
2. *A more efficient and desirable design can be achieved through flexible design standards or mixed land use patterns than can be attained through the strict adherence to zoning standards;*
3. *Adequate public facilities and infrastructure exist or can be provided to the project site to serve the proposed type and intensity of development;*
4. *Detailed development plans are known at the time the comprehensive development plan is prepared, allowing combined review and approval;*
5. *Build out of the PD project area is contemplated within the scope and duration of the plan; and*
6. *The project is located within a receiving area as shown on the master plan land use maps, and is proposing to utilize transfer development rights.*

Staff has found that the project meets criteria one through five. Since this is a parcel with a number of older units, a more efficient and desirable design can be achieved through flexible design of the parcels. Adequate public facilities and infrastructure exist and detailed development plans have been provided. The project will be completed in two years. The project does not meet criterion number six only because it is not located within a Receiving Area.

2. *The extent that the plan departs from zoning and subdivision regulations otherwise applicable to the property, including but not limited to density, bulk and use, and the reasons why these departures are deemed to be in the public interest.*



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Staff Response: As discussed above, the three single-family dwellings that will remain on the property do not meet current setback requirements. Staff has found no evidence that the public interest would be negatively impacted by allowing the three single family dwellings to remain on the property. If the applicant chooses to demolish and rebuild the residences, the new residences would be required to meet current setback requirements.

3. *The ratio of residential to non-residential use in the Planned Development is consistent with the Master Plan.*

Staff Response: There are no non-residential uses proposed.

4. *The purpose, location and amount of the common open space in the Planned Development, the reliability of the proposals for maintenance and conservation of the common open spaces are adequate as related to the proposed density and type of residential development.*

Staff Response: County Code, Section 20.676.100, requires that a minimum of 25 percent of the project site be retained in common open space. The parcel is 62,726 square feet. The applicant is proposing 29,429 square feet of coverage. As a result, 53 percent of the site will be set aside as open space.

5. *The physical design of the PD makes provisions for adequate public facilities, as required by code.*

Staff Response: The project has been conditioned to meet the adequate public facilities requirements of County Code.

6. *The proposed development is compatible with and preserves the character and integrity of adjacent development and neighborhoods.*

Staff Response: The proposed PD is compatible with the character and integrity of adjacent development and neighborhoods. The density of the development will now be consistent with S-070B Plan Area Statement density requirements, and the removal of the cabins and mobile home will enhance the character and integrity of the property, reduce coverage, and increase open space.

7. *Any development-related adverse impacts, such as traffic, noise, odors, visual nuisances, or other similar adverse effects to adjacent development and neighborhoods, are mitigated by improvements or modifications either on-site or within the public right-of-way.*

Staff Response: While there may be some construction noise associated with the removal of the cabins and mobile home, Staff does not anticipate any long term development-related adverse impacts.

8. *Where a development plan proposes development over a period of years, the sufficiency of the terms and conditions intended to protect the interests of the public, residents and owners of the PD and the integrity of the plan, and where the plan provides for phases, the period in which the application for each phase must be filed.*

Staff Response: The applicant will have two years to record the Final Map.

9. *That each individual unit or phase of the development, if built in stages, as well as the total development, can exist independently and be capable of creating a good environment in the locality and be as desirable and stable in any phase as in the total development.*

Staff Response: The applicant will have two years to record the Final Map.

10. *The uses proposed will not be a detriment to the present and proposed surrounding land uses, but will enhance the desirability of the area and have a beneficial effect.*

Staff Response: Staff has found that the residences will not be a detriment to the surrounding residential and recreational land uses. The proposed project will enhance the desirability of the area and have a beneficial effect in that coverage will be reduced on the property, which will help reduce runoff into Lake Tahoe.

11. *Any deviation from the standard ordinance requirements is warranted by the design and additional amenities incorporated in the development plan which offer certain unusual redeeming features to compensate for any deviations that may be permitted.*

Staff Response: The plan deviates from standard code requirements in that Parcel 2 does not meet the minimum 20,000-square foot parcel size requirement for the S-070B Plan Area Statement, and the three single-family homes that will remain on the property do not meet current setback requirements. The plan also deviates from the standard code requirements in that Parcels 1 and 3 are in a special flood hazard area and will be less than the 19 acre minimum net parcel size required by code. Staff does not anticipate any negative impacts to the flood zone. The overall proposal to remove seven cabins and one mobile home will improve the appearance of the property and have environmental benefits that compensate for the deviations that may be permitted.

12. *The PD will not result in material prejudice or diminution in value of surrounding properties, and will not endanger the health, safety and welfare of the community.*

Staff Response: There has been no evidence submitted to the County indicating that the proposed project will cause diminution in value of surrounding properties, nor does Staff believe that the development will endanger the health, safety, and welfare of the community.

13. *The subdivision of land proposed in the proposed PD meets the requirements of NRS and Title 20.*

Staff Response: As conditioned, the division of land proposed in the PD meets the requirements of NRS and County Code.

14. *The subdivision of land proposed in the PD conforms to the density requirements, lot dimension standards and other regulations applicable to PD.*



Staff Response: The maximum allowable density for any parcel within a PD is that which is allowed in the base zoning district. The minimum parcel size in the S-070B Plan Area Statement is 20,000 square feet. Since the parcel is 62,726 square feet, three parcels ($62,726/20,000 = 3$) are permitted. The code does not have lot dimension standards for the S-070B Plan Area Statement. Therefore, the subdivision of land proposed in the PD conforms to the density requirements, lot dimensions standards, and as conditioned, all other regulations applicable to a PD.

15. *The subdivision of land proposed in the PD conforms to the improvement and design standards contained in the Development Code and adopted Design Criteria and Improvement Standards.*

Staff Response: As conditioned, the proposed PD conforms to the improvement and design standards contained in Title 20 and the DCDCIS.

16. *Where applicable, adequate transfer development rights have been established consistent with the number of proposed units within the PD.*

Staff Response: Not applicable. The project is not within a Receiving Area.

17. *The PD has a beneficial relationship to the neighborhood in which it is proposed to be established.*

Staff Response: A number of older cabins and a mobile home will be removed from the property. The coverage on the site will be reduced on the property, which will increase infiltration and help reduce runoff into Lake Tahoe. Therefore, it is anticipated that the proposed PD will have a beneficial relationship on the neighborhood in which it will be established.

FINDINGS FOR A VARIANCE TO THE FLOODPLAIN MANAGEMENT ORDINANCE
Pursuant to Section 20.50.190, *Variances*, a variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of Chapter 20.50, *Floodplain Management*, would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners. In approving a request for a variance, the Board must make findings of fact regarding the following:

1. *A showing of good and sufficient cause;*

Staff Response: Allowing the applicant to divide the property into three parcels, each with one single-family dwelling, will bring the project into compliance with the intent of the S-070 B Plan Area Statement. Furthermore, the removal of the seven cabins and one mobile home will reduce coverage and therefore help to increase infiltration and reduce runoff into Lake Tahoe.

County Code, Section 20.50.110, which states that land in a special flood hazard area may not be divided for residential purposes that will result in the creation of a parcel that is less than 19 net acres, is intended to ensure that special flood hazard areas are not developed with high density

developments. High density developments in a special flood hazard area impede flows and can increase the potential loss of life and property during a 100-year storm event.

The reason for the variance request, and one of the main reasons Staff is recommending approval of the PD, is that the flood zone on the property is a function of an outdated FIRM, not a representation of actual flood hazard. Because a Federal Court Decree prevents Lake Tahoe from being raised above the elevation of 6,229.1 feet, Staff has found that a significant amount of the site shown in the "A" flood zone is not and cannot be subject to actual flooding coming from the lake. As shown on the Tentative Parcel Map, the FEMA flood zone encroaches substantially further into the property than the high water line elevation of 6229.1. Therefore, Staff has found no reason to prevent the property owner from dividing the parcel for residential purposes.

2. *A determination that failure to grant the variance would result in exceptional hardship to the applicant;*

Staff Response: Failure to grant the variance would prohibit the applicant from moving forward with the PD as proposed. The applicant is proposing to improve the site by removing the seven cabins and mobile home. Staff does not anticipate the project will negatively impact the flood zone and has found no reason to prevent the applicant from dividing the property for residential purposes. Thus, the failure to grant the variance would result in exceptional hardship to the applicant and a less desirable site layout.

3. *A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, creating a nuisance, causing fraud or victimization of the public, or conflict with existing local laws or ordinances; and*

Staff Response: Staff has found no evidence that the granting of the variance will result increased flood heights, additional threats to public safety, extraordinary public expense, create a nuisance, cause fraud or victimization of the public, or conflict with existing local laws.

4. *That the applicant has signed a disclosure statement indicating that he or she understands that:*

- a. *The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance; and*
- b. *Such construction below the base flood level increases risks to life and property; and*
- c. *A copy of the disclosure will be filed and recorded by the county recorder in a manner so that it appears as an exception on the title of the affected parcel of land.*

Staff Response: The applicant is not proposing to construct a structure below the base flood level and therefore Staff has determined that a disclosure statement is not necessary. All future construction on the site will be required to meet the provisions of Chapter 20.50, *Floodplain Management*.

TIME FOR FILING OF PLAN

The time for filing of the final planned development map is March 19, 2011.

Nancy McDermid

Nancy McDermid, Chair
Douglas County Board of Commissioners

ATTEST:

Ted Thran

Ted Thran, Clerk-Treasurer

BY:

L. Juducler
CLERK TO THE BOARD

CERTIFIED COPY

The document to which this certificate is attached is a full, true and correct copy of the original on file and on record in my office.

DATE:

MAR 20, 2009

Thran Clerk of the *9th* Judicial District Court of the State of Nevada in and for the County of Douglas.

By

David M. [Signature] Deputy



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