

# PLANNING & REDEVELOPMENT DEPARTMENT STAFF REPORT PLANNING COMMISSION MEETING JANUARY 26, 2006

Prepared by: Eileen Bruggeman, Project Planner

ITEM V-B: TENTATIVE SUBDIVISION MAP and DESIGN REVIEW PERMIT EXTENSION - 611

BARBARA WAY - NWRSP PARCEL 40, LADERA VILLAGE, AKA THE ADORA -

FILE#S SUB-000035 & DRP-000076

#### REQUEST

The applicant requests a one-year extension of a previously approved Design Review Permit to construct 103 condominium units including common areas and landscaping on two (2) parcels totaling 4.5 acres. The applicant also requests a five-year extension of the previously approved Tentative Subdivision Map to create 103 condominium units with common areas.

Applicant/Owner - Cresleigh Homes Corp., Ron Erny

# **SUMMARY RECOMMENDATION**

The Planning & Redevelopment Department recommends that the Planning Commission take the following actions:

- A. Adopt the two (3) findings of fact for the Tentative Subdivision Map Extension;
- B. Approve the Tentative Subdivision Map subject to two (2) conditions of approval;
- C. Adopt the two (2) findings of fact for the Design Review Permit Extension; and
- D. Approve the Design Review Permit Extension subject to two (2) conditions of approval;

#### SUMMARY OF OUTSTANDING ISSUES

The Roseville Joint Union High School District (HSD) has requested that the current owner of Ladera Village (aka The Adora) enter into a Mutual Benefit Agreement with the HSD, similar to agreements the HSD has recorded with developers of other condominium projects. Staff has received a letter from the HSD requesting denial of the requested extensions (Attachment 2). The original Tentative Map approval required the payment of the multi-family residential project school fee in effect at the time of issuance of building permits (\$0.85 per square foot in 2003, and currently \$0.90 per square foot) (Attachment 3).

Staff has received a letter from the applicant's attorney challenging the City's ability to impose a higher school fee (Attachment 4). The City Attorney's office has reviewed the letter, and they concur that the City of Roseville is not legally authorized to add a condition to the Tentative Subdivision Map Extension that increases the school fee over what was included in the Conditions of Approval of the approved Tentative Subdivision Map.

#### **BACKGROUND**

The subject site includes two existing parcels, 611 and 621 Barbara Way, located south of Junction Boulevard, west of Washington Boulevard (Attachment 1). The zoning and land use designations for the project are Attached Housing District (R3) and Medium Density Residential at 9.2 units per acre (MDR 9.2). The project is within NWRSP Parcel 40. Parcel 40 was originally allocated 206 units. A total of 77 single-family units and 46 condominium units have been constructed to date, leaving 83 of the original 206 available for development. The subject site is the remaining undeveloped portion of Northwest Roseville Specific Plan Parcel 40.

On March 12, 1998 the Planning Commission approved a Design Review Permit for the construction of a 103-unit senior apartment project (Park Manor) on the subject site, and a Lot Line Adjustment to adjust the parcel boundaries between three parcels in order to create two parcels (2.6 and 2.26 acres). At that time a Conditional Use Permit and Development Agreement were also approved for a Residential Density Bonus to increase the number of units allocated to the parcel from 83 units to 103 units. The associated Negative Declaration was also adopted at that time.

The Park Manor senior apartment project was not built. In 2003 a new set of applications was received to allow construction of a 103-unit condominium project (Ladera Village). The request included an application for a tentative subdivision map to subdivide the 4.5 acres into 103 lots for multi-family residential with one common area. The requested entitlements were approved by the Planning Commission November 2003 and by the City Council in January 2004.

Following approval of the project the land was sold in 2005 to the current owner, Cresleigh Homes. While plans have been submitted for final map recordation, grading and building permits, they are not approved and issued. Cresleigh Homes submitted an application requesting extension of the tentative map and DRP in anticipation that the Tentative Subdivision Map would not be recorded or building permits issued to effectuate the Design Review Permit before the expiration date.

Following receipt of the application a Notice of Application Received was sent to affected utilities, school districts, and other agencies. As previously noted, in response Staff has received a letter in opposition to the project from the Roseville Joint Union High School District, and is included as Attachment 2.

## **EVALUATION**

The Subdivision Ordinance (Tentative Subdivision Map) sets a maximum extension period, and requires that findings be adopted for approval of a tentative map extension but it does not contain specific language for those findings. The Zoning Ordinance (Design Review Permit) requires the adoption of findings 2 and 3 as listed below for approval of an extension. The findings apply to both the Tentative Subdivision Map Extension and the Design Review Permit Extension.

- 1. A five (5) year extension of the Tentative Subdivision Map for Ladera Village (aka The Adora) will result in a map extension totaling sixty-months (60), the maximum allowed by the Subdivision Map Act.
- 2. The proposed development is in compliance with all standards in effect as of the date of application for the extension, or there is no public benefit to the imposition of current standards comparable to the cost of imposing them.
- 3. No change has occurred in the circumstances or in the factual basis on which the approval was made since the date of the original approval, which results in the inability to make findings of approval for the extension consistent with those originally made.

As stated earlier, a letter was received in opposition to the project from the Roseville Joint Union High School District (HSD) (Attachment 2). The HSD is requesting denial of the extensions, unless Cresleigh Homes agrees to enter into a Mutual Benefit Agreement to pay a school fee that is higher than the base fee. The letter states it is necessary to provide mitigation of the impact to school facilities resulting from new development.

Typically residential landowners enter into a Development Agreement that specifies they will enter into a Mutual Benefit Agreement to pay fees higher than the statutory school fees to mitigate impacts to school facilities at the time a new specific plan is being developed, or when a parcel is being rezoned from a non-residential use to a residential land use.

The Northwest Roseville Specific Plan (NWRSP) anticipated 206 Medium Density Residential units from Parcel 40 (inclusive of the subject property on Barbara Way). The subject 103-condominium units are not new development; they were included in specific plan and school district projections. Within the NWRSP this area was owned by a small property owner, and is not part of the NWRSP Development Agreement with the City.

Over time there have been several development proposals for Parcel 40, inclusive of single family residential, condominiums, apartments, and senior only apartments. Developers of the projects constructed to date on other portions of Parcel 40 have paid the statutory base school fee in effect at that time.

The most recent proposal approved in 2003 for the property at 611 Barbara Way was for development of 103 condominium units (now The Adora). This was consistent with the NWRSP and zoning designation, therefore a rezone was not required.

When a Notice of Application Received for the Design Review Permit and Tentative Map was distributed in 2003 the project description included a request to construct 103 condominium units including common areas and landscaping, and to subdivide 4.5 acres into 103 lots for multi-family residential with one common area (Attachment 3). In response a memo was generated by the Roseville Joint Union High School District (HSD) that indicated the developer fee for the subject multi-family residential project would be \$0.85/square foot, subject to the fee structure in place at the time of building permit issuance (Attachment 5). At this time the HSD fee schedule includes a statutory fee for 'Residential No Agreement – Base Fee' of \$0.90 per square foot (Attachment 6). The base fee is the same for purchase or rental units, and all residential types (i.e., single family, condo, duplex, townhome, halfplex or apartments).

As mentioned previously Staff has received a letter from the applicant's attorney challenging the City's ability to impose a higher school fee (Attachment 4). The City Attorney's office has reviewed the letter, and they concur that the City of Roseville is not legally authorized to add conditions to an extension that would require payment of a higher school fee, or require the developer to enter into a Mutual Benefit Agreement with the HSD.

Absent a Mutual Benefit Agreement being in place for Parcel 40, combined with the above referenced communication, Cresleigh Homes anticipated they would be assessed the base fee of \$0.90 per square foot. Cresleigh Homes does not agree to enter into a Mutual Benefit Agreement to pay a fee higher than the statutory fee for development of this remainder portion of Parcel 40 (see letter from the applicant's attorney, Attachment 4).

## **SUMMARY / CONCLUSION**

A condition was not placed on the Tentative Subdivision Map to enter into a Mutual Benefit Agreement with the High School District. Nothing has changed in the factual basis on which the original approval was made. The City of Roseville does not have the authority to condition a tentative map extension to pay higher school fees than the school fee obligation required of the tentative subdivision map.

The applicant has not proposed any significant changes to the Design Review Permit or the Tentative Subdivision Map. The Planning Department forwarded the previously approved project plans and the adopted conditions of approval to City departments and utility service providers for review and comment. City staff did not identify any change in circumstances that would affect the project. In addition, there were no comments or issues raised by other City departments or service providers. Given this information, staff has determined that the findings for approval of the extension can be made as listed above.

Based on the evaluation above staff believes that the Planning Commission can make the required findings and approve the extension of the Tentative Subdivision Map and Design Review Permit.

#### **ENVIRONMENTAL DETERMINATION**

A Negative Declaration was adopted by the City Council on January 7, 2004. The Council's adoption of the Negative Declaration completed the environmental review process. The California Environmental Quality Act (CEQA) specifies that supplemental review is not required for subsequent discretionary approvals unless there are changes in the project or changed circumstances that would produce new impacts or significantly greater impacts than those described in the previous environmental document. The proposed project is in substantial conformance with the project described and evaluated in the adopted Negative Declaration and there has been no change in surrounding circumstances. No further environmental review is required.

#### **RECOMMENDATION**

The Planning & Redevelopment Department recommends that the Planning Commission take the following actions:

- A. Adopt the two findings of fact as stated in the staff report for the TENTATIVE SUBDIVISION MAP EXTENSION 611 BARBARA WAY (LADERA VILLAGE, AKA THE ADORA) -- FILE # SUB-000035;
- B. Approve the TENTATIVE SUBDIVISION MAP EXTENSION 611 BARBARA WAY (LADERA VILLAGE, AKA THE ADORA) -- FILE # SUB-000035 with two (2) conditions of approval.
- C. Adopt the two findings of fact as stated in the staff report for the DESIGN REVIEW PERMIT EXTENSION – 611 BARBARA WAY – LADERA VILLAGE (AKA THE ADORA) – FILE # DRP-000076;
- D. Approve the DESIGN REVIEW PERMIT EXTENSION 611 BARBARA WAY LADERA VILLAGE (AKA THE ADORA) FILE # DRP-000076 with two (2) conditions of approval.

## **CONDITIONS FOR TENTATIVE SUBDIVISION MAP FILE # SUB-000035**

- 1. The project shall comply with the originally approved conditions of approval for the Tentative Subdivision Map (file #SUBD 03-02) except as modified below. (Planning and Redevelopment)
- 2. This Tentative Subdivision Map Extension approval shall be recorded within a period of five years and if not recorded shall expire on **January 26, 2011.** (Planning and Redevelopment)

#### **CONDITIONS FOR DESIGN REVIEW PERMIT EXTENSION FILE # DRP-000076**

- 1. The project shall comply with the originally approved conditions of approval for the project (DRP 03-26) except as modified below. (Planning and Redevelopment)
- 2. This Design Review Permit Extension shall be valid for a period of one (1) year and shall expire if not effectuated by **January 26, 2007**. (Planning and Redevelopment)

#### **ATTACHMENTS**

- 1. Vicinity Map
- 2. Letter in opposition
- Notice of Application Received, Request for Comments, dated April 17, 2003

- 4. Letter from Mr. Ed Quinn, McDonough Holland & Allen, dated December 21, 2005
- 5. Letter from Roseville Joint Union High School District, dated May 5, 2003
- 6. Roseville Joint Union High School District Schedule of Developer Fee Agreements (revised December 1, 2005)

# **EXHIBITS**

- A. Tentative Subdivision Map
- B. Site Plan
- C. Grading Plan
- D. Landscape Plan
- E. Elevations
- F. Conditions of Approval

Note to Applicant and/or Developer: Please contact the Planning & Redevelopment Department staff at (916) 774-5276 prior to the Commission meeting if you have any questions on any of the recommended conditions for your project. If you challenge the decision of the Commission in court, you may be limited to raising only those issues which you or someone else raised at the public hearing held for this project, or in written correspondence delivered to the Planning Director at, or prior to, the public hearing.

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