

MONTEREY COUNTY PLANNING COMMISSION

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| Meeting: December 13, 2006 Time: 1:30 P.M | Agenda Item No.: 12 |
| Project Description: (1) Deny the appeal by Ron Whitehead of the discretionary decision by the RMA – Interim Director of Planning to disapprove the Whitehead Tentative Subdivision map, “Timeview Estates” (WHITEHEAD; PLN980272, PLN010065 and PLN060006), based on the California Coastal Commission boundary determination that delineates 4 acres of the 35.18 acre, 7-lot subdivision as subject to the North County Local Coastal Program policies; (2) direct staff to refund any monies paid by appellant to satisfy conditions of approval for the Whitehead Tentative Map upon submittal of appropriate documentation of all receipts and records of such payments; and (3) allow all County application fees to be waived if appellant chooses to submit an application for a new Tentative Map for the subject property within one calendar year. | |
| Project Location: Fronting on and easterly of Timeview Way, north of Castroville Boulevard and west of San Miguel Canyon Road, Prunedale Area, North County. | APN: 129-083-034-000 |
| Planning File Number: PLN980272, PLN010065 and PLN060006 | Name: Ron Whitehead and Hassan Babaei, Property Owner/Agent |
| Plan Area: North County Area Plan, Land Use Plan and Coastal Implementation Plan | Flagged and staked: No |
| Zoning Designation: : <i>Insert</i> “LDR/5” [Low Density Residential, 5 acres per unit] and “RDR/20 (CZ)” [Rural Density Residential, 20 acres per unit, Coastal Zone] | |
| CEQA Action: Negative Declaration, filed February 5, 1999 | |
| Department: RMA - Planning Department | |

RECOMMENDATION:

Staff recommends that the Planning Commission:

1. deny the appeal by Ron Whitehead of the discretionary decision by the RMA – Interim Director of Planning to disapprove the Whitehead final subdivision map, Timeview Estates (**WHITEHEAD; PLN980272, PLN010065 and PLN060006**), based on the California Coastal Commission boundary determination that delineates 4 acres of the 35.18 acre, 7 lot subdivision as subject to the North County Local Coastal Program policies;
2. direct staff to refund any monies paid by appellant to satisfy conditions of approval for the Whitehead Tentative Map upon appropriate documentation of all receipts and records of such payments; and
3. allow all County application fees to be waived if appellant chooses to submit an application for a new Tentative Map for the subject property within one calendar year.

PROJECT OVERVIEW:

On September 15, 2005, the County RMA–Director of Planning received a boundary determination from the California Coastal Commission that four (4) acres of the Whitehead/Babaei’ approved 35.18-acre, tentative subdivision map (“Timeview Estates”) was within the Coastal Zone (see **Exhibit D**). The subdivision design calls for the placement of the main access road, building sites, and septic system envelopes for five of the seven parcels in the existing Coastal Zone portion of the property on the western (seaward) facing slope, and within the environmentally sensitive maritime chaparral habitat area.

RMA-Planning Director’s Letter: This prompted the Director’s letter to the appellant that the Timeview Estates subdivision must be disapproved because the 4 acre portion was processed as a

non-coastal subdivision subject to the Inland designation, Low Density Residential allowing for 5 acre minimum parcels (LDR/5), rather than as a Coastal Development Permit with the Coastal Zone designation, Rural Density Residential allowing for 20 acre minimum parcels (RDR/20 [CZ]). Given this processing error, the Director of Planning has offered to refund the appellant's monies paid to the County to satisfy conditions of approval of the tentative map, release any bonds posted for the subdivision improvements, and waive fees to facilitate and expedite processing a new application with Planning Commission approval (see **Exhibit E**).

On December 6, 2005, the Board of Supervisors directed staff to join with the owner in applying to the California Coastal Commission to adjust the Coastal boundary line so as to remove the parcel in its entirety from the Coastal Zone. On a May 11, 2006 hearing, the California Coastal Commission denied the proposed adjustment on the grounds that the adjustment as proposed does not fully conform to the requirements of Section 30103 (b) of the Coastal Act that would require a Coastal Development Permit to achieve the policies of the local coastal program (see **Exhibit F**).

Staff recommendation: The RMA-Planning Department staff is recommending that the Planning Commission deny the Whitehead appeal of the Director's decision based on the Coastal Commission determination that the 4 acre portion of the property must remain under the local coastal program jurisdiction to allow maximum protection of the environment and resources found adjacent to the Elkhorn Slough. In addition, the Director is recommending waiver of the monies expended on condition compliance and the RMA-Planning Department facilitation of a revised tentative subdivision map that is consistent with the Coastal Zone policies where appropriate (see **Exhibit E**).

OTHER AGENCY INVOLVEMENT:

✓ California Coastal Commission

The above checked agency reviewed this project and their denial of boundary adjustment can be found in **Exhibit F** of this report.

Note: Section 21.80.040 of Title 21 (Inland Zoning Ordinance) and 20.88.030 of Title 20 (Coastal Zoning Ordinance) states that the Planning Commission is the Appeal Authority to consider appeals from the discretionary decisions of the Director of Planning. According to Section 20.88.050 D of Title 20, the decision of the Planning Commission may be appealed to the Board of Supervisors.

David Lutes, Senior Planner
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December 4, 2006

cc: Planning Commission Members (10); CCC; Wendy Strimling, County Counsel; Mike Novo, Laura Lawrence, and Bob Schubert, RMA – Planning Department

Attachments:

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| Exhibit A: Summary of Public Hearings/Major Events | Exhibit E: RMA-Director of Planning letter |
| Exhibit B: Whitehead Notice of Appeal | Exhibit F: California Coastal Commission decision |
| Exhibit C: Planning Commission Resolution | Exhibit G: Site Plans, Maps |
| Exhibit D: CCC staff memo regarding boundary | |

This report was reviewed by Robert Schubert, Acting Planning and Building Service Manager/Senior Planner

EXHIBIT A

SUMMARY OF PUBLIC HEARINGS / MAJOR EVENTS for the WHITEHEAD/BABAEI SUBDIVISION PROPOSAL RMA-PLANNING DEPARTMENT FILES # PLN980272; PLN010065; and PLN060006

The appellant first submitted an application for a Standard Subdivision Tentative Map (“Timeview Tentative Map”) on June 9th, 1998 to allow division of a 35.18-acre parcel into 6 parcels of 5 acres each and 1 parcel of 5.16 acres. A summary of the public hearings are as follows:

- **March 11, 1999:** Standard Subdivision Committee recommendation for adoption of a California Environmental Quality Act (CEQA) Negative Declaration and approval of the Timeview subdivision Tentative Map (*Planning file # PLN980272*);
- **April 28, 1999:** Planning Commission approval of the Standard Subdivision Committee recommendations;
- **June 28, 2001:** Standard Subdivision Committee recommendation for extension of the Timeview Tentative Map (*Planning file # PLN010065*), then extended to October 29, 2002 because of moratorium on subdivisions in North County.
- **May 9, 2002:** Standard Subdivision Committee recommendation for extension of Timeview Tentative Map;
- **July 31, 2002:** Planning Commission approval of 3 year extension of Timeview Tentative Map, to expire on April 28, 2004. Thereafter, appellant pursued efforts to meet conditions of approval for filing the final subdivision map in a non-coastal area, zoned LDR/5;
- **September 15, 2005:** California Coastal Commission staff provided a Coastal Zone boundary determination that a portion of the property was is the Coastal Zone, zoned RDR/20 (CZ).
- **October 17, 2006:** RMA-Director of Planning letter to appellants that the Planning Department cannot approve the Timeview Tentative Map because of its inconsistency with North County Land Use Plan policies and non-conformance with the Title 20 Coastal Zone Ordinance requiring a Coastal Development Permit for the subdivision;
- **December 6, 2005:** Referral from Board of Supervisors to make a recommendation that the County join with owner in applying to the California Coastal Commission to adjust the Coastal boundary line to remove the parcel in its entirety from the Coastal Zone (*PLN060006*);
- **May 11, 2006:** California Coastal Commission denies the proposed adjustment on the grounds that the adjustment as proposed does not fully conform to the requirements of Section 30103 (b) of the Coastal Act that would require a Coastal Development Permit to achieve the policies of the local coastal program.
- **November 2, 2006:** Appellant files a Notice of Appeal based on a 1986 determination by the County of Monterey project planner that the subject property was not in the Coastal Zone, and that the 7-lot subdivision was approved by the County decision-making bodies and conditions of approval have subsequently been met.

WHITEHEAD APPEAL, EXHIBIT B

EXHIBIT C
Before the Planning Commission in and for the
County of Monterey, State of California

Resolution No. _____

- (1) Deny the appeal by Ron Whitehead of)
the discretionary decision by the RMA –)
Interim Director of Planning to disapprove)
the Whitehead tentative subdivision map,)
Timeview Estates (**WHITEHEAD;**)
PLN980272, PLN010065 and)
PLN060006), based on the California)
Coastal Commission boundary)
determination that delineates 4 acres of the)
35.18 acre, 7-lot subdivision as subject to)
the North County Local Coastal Program)
policies;)
- (2) direct staff to refund any monies paid)
by appellant to satisfy conditions of)
approval for the Whitehead Tentative Map)
upon submittal of appropriate)
documentation of all receipts and records)
of such payments; and)
- (3) allow all County application fees to be)
waived if appellant chooses to submit an)
application for a new Tentative Map for)
the subject property within one calendar)
year.)

WHEREAS, the Planning Commission of the County of Monterey recognizes the error made in processing the Whitehead/Babaei subdivision (RMA-Planning Department files PLN980272, PLN010065 and PLN060006) that incorrectly delineated 4 acres of the 35.18 acre, 7-lot Timeview Estates subdivision under the County’s Title 21 Zoning Ordinance allowing for Low Density Residential development with 5 acre minimum parcels; and

WHEREAS, the Planning Commission has received the California Coastal Commission denial of RMA-Planning Department request, under direction from the County of Monterey Board of Supervisors, to adjust the Coastal boundary line to remove the parcel in its entirety from the Coastal Zone; and

WHEREAS, the Planning Commission recognizes the Coastal Commission’s jurisdiction regarding property bisected by the Coastal Zone Boundary under Section 13050.5 of the California Code of Regulations, which requires a Coastal Development Permit; and

WHEREAS, the Planning Commission accepts the California Coastal Commission basis for denial, that the adjustment as proposed does not fully conform to the requirements of Section 30103 (b) of the Coastal Act that would require a Coastal Development Permit to achieve the policies of the local coastal program; namely, that the subdivision design calls for the placement of development within the existing Coastal Zone portion of the property within the environmentally sensitive maritime chaparral habitat area.

NOW, THEREFORE, BE IT RESOLVED THAT THE PLANNING COMMISSION:

- (1) Denies the appeal by Ron Whitehead of the discretionary decision by the RMA – Interim Director of Planning to disapprove the Whitehead tentative subdivision map, Timeview Estates (WHITEHEAD; PLN980272, PLN010065 and PLN060006), based on the California Coastal Commission boundary determination that delineates 4 acres of the 35.18 acre, 7-lot subdivision as subject to the North County Local Coastal Program policies;
- (2) Directs staff to refund any monies paid by appellant to satisfy conditions of approval for the Whitehead Tentative Map upon submittal of appropriate documentation of all receipts and records of such payments; and
- (3) Allows the Director of Planning to waive all County application fees if appellant chooses to submit an application for a new Tentative Map for the subject property within one calendar year.

PASSED AND ADOPTED on this 13th day of December, 2006, upon motion of Planning Commissioner _____, seconded by Commissioner _____, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

I, Mike Novo, Secretary of the Planning Commission of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Planning Commission duly made and entered in the minutes thereof at page _____ of Minute Book _____ ,

On _____ , 2006

Dated: _____ , 2006

Mike Novo, Secretary to the Planning Commission,
County of Monterey, and State of California.

By _____

