

DEPARTMENT: Planning

By: Eric J. Toll, Planning Director

Phone: 966-0302

RECOMMENDED ACTION AND JUSTIFICATION:

(Policy Item: Yes___ No X)

As of the deadline for Board packet submittal for the June 4, 2002 meeting, the appellant and staff have not yet come to a formal agreement on the requirements for resolving the density violation. Staff met with the appellant and his attorney immediately following the hearing on May 14, 2002. Staff developed amended requirements for abatement of the violation based upon this meeting and input from County Counsel and the Building Department Director. Staff discussed these amended requirements with both the appellant and his attorney. On May 23, 2002, the appellant contacted staff to discuss further amendments to the requirements for abatement, however a formal proposal from the appellant has not yet been received. The appellant was advised that a formal proposal is required.

If the appellant and staff have not come to a formal agreement on the requirements for resolving the density violation by 5:00 p.m. on Monday June 3, 2002, the public hearing will be conducted on June 4, 2002. The only appeal item which will be discussed at the hearing will be the requirements for abatement of the density violation. If the public hearing is conducted, staff recommends that the Board:

Adopt a resolution denying the outstanding portions of Appeal No. 2001-1 and upholding the Planning Director's amended requirements for abatement of the density violation on APN 006-080-040, Mark Chapman, property owner, based upon findings.

(This resolution will be provided to the Board of Supervisors if it appears that a formal agreement for resolving the violation will not be able to be made.)

The recommended action is based upon the appellant's acknowledgement of the density violation on his property, made at the beginning of the public hearing on May 14, 2002. Staff's requirements for abatement have been modified since May 14, 2002.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

This item was originally noticed for public hearing on February 26, 2002. On February 26, 2002, the Board of Supervisors continued the public hearing to April 9, 2002 at the request of the appellant.

On April 9, 2002, the Board of Supervisors continued the public hearing to May 14, 2002 at the request of the appellant.

On May 14, 2002, the Board of Supervisors continued the public hearing to June 4, 2002 after the appellant acknowledged the zoning violation. The continuance was to give time for the appellant to negotiate a resolution of the violation. The Board directed that this would be the final continuance of the hearing on this appeal.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

ALTERNATIVES: 1) Modify the time frame or requirements for violation abatement.

NEGATIVE ACTION: Negative action or no action would result in no change to the Planning Director's amended requirements for resolution of the density violation which exists on the property.

COSTS: (X) Not Applicable
A. Budgeted current FY \$ _____
B. Total anticipated Costs \$ _____
C. Required additional funding \$ _____
D. Internal transfers \$ _____
COSTS: () 4/5th Vote Required
A. Unanticipated revenues \$ _____
B. Reserve for contingencies \$ _____
C. Source description: _____
Balance in Reserve Contingencies, If Approved: \$ _____

SPECIAL INSTRUCTIONS:
List the attachments and number the pages consecutively:
1. May 24, 2002 Letter to Attorney from Toll

CLERK'S USE ONLY

Res. No.: 02-113 Ord. No.: _____
Vote - Ayes: _____ Noes: _____
Absent: _____ Abstained: _____
 Approved Denied
 Minute Order Attached No Action Necessary
The foregoing instrument is a correct copy of the original on file in this office.
Date: _____
ATTEST: _____
MARGIE WILLIAMS, Clerk of the Board
By: _____
Deputy

ADMINISTRATIVE OFFICER'S RECOMMENDATION:

This item on agenda as:
_____ Recommended
_____ Not Recommended
_____ For Policy Determination
_____ Submitted for Comment
_____ Returned for Further Action
Comment: _____
A.O. Initials: WMA



COUNTY OF MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

ROBERT C. STEWART, CHAIRMAN
PATTI A. REILLY, VICE-CHAIRMAN
DOUG BALMAIN
GARRY R. PARKER
BOB PICKARD

DISTRICT III
DISTRICT I
DISTRICT II
DISTRICT IV
DISTRICT V



MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: ERIC TOLL, Planning Director
FROM: MARGIE WILLIAMS, Clerk of the Board *MW*
SUBJECT: Mark Chapman Appeal
Resolution No. 02-193

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on June 4, 2002

ACTION AND VOTE:

10:44 a.m. Eric Toll, Planning Director;

PUBLIC HEARING: Consider Appeal No. 2001-1; an Appeal of the Planning Director's Notice of Violation Regarding the Density on a Parcel in Yosemite West; Mark Chapman, Property Owner and Appellant (Continued from 05/14/02)

BOARD ACTION: Eric Toll advised of the previous stipulation by the appellant and his attorney on May 14, 2002, that the tri-plex that exists is a zoning violation; and of the Board's direction to resolve the violation. He advised of staff's recommendation for alterations to combine unit one and three to one-single family dwelling, and he advised that the appellant agrees with the recommendation with the exception of issues with the solarium area. Now the appellant is requesting that he remove the locks on the doors that separate the dwelling units versus the alterations. Staff responded to questions from the Board relative to the recommended abatement to restore the solarium to its original size and eliminate the bathroom.

The public portion of the hearing was opened and input was provided by the following:

Mark Chapman, appellant, stated the abatement is a financial issue for him. He stated that he started building the house prior to Title 17, and he commented on the abatement options that were discussed – he stated they do not work for him financially and there are energy efficiency concerns. As a builder, he does not feel there is enough room to have an exit door and have an L-stairway, especially with the windows. He advised of his discussion with the Building Director relative to the abatement options and complying with the building codes. He stated that by removing the locks on the doors he feels it would bring his home into compliance.

Staff responded to questions from the Board relative to Mr. Chapman's request and how that differs from staff's recommendation. Eric Toll further advised of construction that was done without building permits when the solarium was altered, and that they have extensive staff time and costs accrued with this

matter. He noted they are not asking for any penalties. He does not feel that removing the locks on the doors solves future potential problems of this being used as a tri-plex.

Mark Chapman offered rebuttal and commented on plans for another dwelling that he had approved, but were not issued due to the sewer moratorium and the financial cost impact he has suffered. He reiterated that he can not afford the abatement recommended by staff.

The public portion of the hearing was closed and the Board commenced with deliberations. Staff responded to questions from the Board relative to the recommendations and options for abatement. Jeff Green, County Counsel, responded to questions relative to being able to resolve this matter without having to bring it back to the Board. (M)Parker, (S)Balmain, Res. 02-193 was adopted denying the appeal and upholding the Planning Director's determination; directing that the kitchen area will be removed as proposed in the letter; the bathroom area will be removed because there has been no provision of evidence that it was timely constructed; that the wall will be changed so that the stairway leads directly from the top to bottom for one dwelling unit as if it was originally designed that way; with the timeframes for accomplishing this to be as set forth in the recommended resolution, and with the other terms and conditions set forth in the recommended resolution relative to having a written agreement for occupancy and that the Assessor's Office be allowed to conduct inspections of the renovated structure for purposes of assessment. Staff responded to additional questions from the Board as to whether the bathroom and kitchen amenities would have been allowed in the original construction. Ayes: Unanimous. The hearing was closed.

cc:

File