

97-172

DEPARTMENT: Public Works

Michael D. Edwards
Public Works Director

Phone: 966-5356

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes_ No_X)

Resolution amending conditions of approval for Land Division Application No. 1476; Judith Moore, Applicant, to delete the condition established by the Planning Commission for frontage improvements to Carter Road, a County road.

This action is recommended by staff, assuming the prior Board agenda item, deleting County road frontage improvement requirements for minor residential subdivisions from the Road Circulation and Improvement Policy, is approved. If the policy change was not approved, the Board should direct staff and the applicant to proceed based on the prior Board determination for this application (refer to Attachment #1).

BACKGROUND AND HISTORY OF BOARD ACTIONS:

Staff met with the applicants on March 21 to discuss a payment schedule for the in-lieu frontage improvement fees. There was a considerable difference between staff's and the applicant's position with regard to the details of the payment terms. Staff indicated that we would soon be proposing retroactive deletion of the policy requiring frontage improvements and the applicant chose to wait for the outcome of the Board's decision rather than continue to negotiate payment terms.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

No action will result in the current Board direction standing and staff will continue to negotiate with the applicant for a payment schedule.

COSTS: Not Applicable

A. Budgeted current FY \$ _____

B. Total anticipated costs \$ _____

C. Required additional funding \$ _____

D. Internal transfers \$ _____

SOURCE: 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. Minutes from 2/4/97 Public Hearing Re Appeal 96-8 (2 pgs)

CLERK'S USE ONLY

Res. No.: 97-172 Ord. No. _____ This item on agenda as:

Vote - Ayes: 5 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
County of Mariposa, State of California

By: _____
Deputy

ADMINISTRATIVE OFFICER'S RECOMMENDATION:

Recommended

Not Recommended

For Policy Determination

Submitted with Comment

Returned for Further Action

Comment: _____

A.O. Initials: Jh

10:58 a.m. Recess

11:01 a.m. Ed Johnson, Planning Director;

PUBLIC HEARING to Consider Appeal No. 96-8; Appeal of Planning Commission's Condition of Approval for Land Division Application No. 1476; Judith Moore, Applicant-Appellant; Dick Seaman, Agent (Continued from 1/14/97)

BOARD ACTION: Ed Johnson presented an overview of the appeal issues and advised that action on this matter will set a precedent for future decisions relative to road frontage improvements and in-lieu fees. Jean Clark, Assistant Planner, reviewed the details of the appeal and the Planning Commission's decision. Staff responded to questions from the Board relative to road frontage improvement requirements and in-lieu fees and designation of road segments being impacted by the land division; actual construction costs to bring Carter Road to a Class II standard for the affected portion and the cost for in-lieu fees; and process of getting an engineer's estimate and review by Public Works. Mike Edwards, Public Works Director, advised that the in-lieu fee has not been set - it would be based on an engineer or contractor's estimate, and he feels the \$14,000 in the staff report may be high. Staff further responded to questions from the Board relative to calculating the in-lieu fees.

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

- Dick Seaman, agent for the applicant/appellant, stated the subject parcel has a mobile home at one end which the owners rent and they are building a residence on the other end; however, in order for them to obtain CalVet financing on the new residence, it has to be on its own parcel - CalVet will not allow the second structure (mobile home) to be on the same parcel with the residence; the land division is not creating any additional impact on Carter Road and two dwellings are allowed on the existing parcel; he referred to the Road Circulation Policy and advised of a subdivision that occurred previously where no improvements have been made and subsequently no impacts to the roads; stated he does not feel Carter Road is unsafe in its current condition even though it is not constructed to County standards - if so, Public Works would have done something about it; stated he felt it was unfair to require these owners to pay a fee just because their property fronts a County road and others with property behind this parcel would not have to pay a fee if they divided; stated he feels the County should want an impact fee that would affect all properties versus a road frontage fee that affects selected parcels as all parcels create an impact; stated he feels the road impact occurs when people reside on the property; noted that not all pieces of property will be fully developed; and requested that the proposed fee be waived, and that if a fee is charged, that it should be proportional to the increased usage impact on Carter Road by the people who live there and not include the other roads. Mr. Seaman responded to questions from the Board relative to the proposed size of the two parcels, access to the second parcel by an easement road; and noted that without the land division, the new structure is legal - it is the land division that triggers the fee.

- Judith Moore, applicant-appellant, advised that their loan for the new residence is based on their wages and an additional fee is a financial hardship, especially since she is currently unemployed with the closure of Yosemite due to the flood and she is concerned that they could loose their house; and she does not feel that they would get another loan to include this fee under the current circumstances. Mrs. Moore responded to questions from the Board relative to processing the loan and the final parcel map and coordinating with the Planning process.

- Harry Moore noted that they need to retain the mobile home for the rental income to meet the income requirements for the loan.

- Mr. Wolf stated he is in a similar situation and his project is on hold pending the outcome of this matter - they have a parcel with two houses and are splitting it; in the process they are trading a parcel and now they fall under this provision and are being

2/4/97

ATTACHMENT I

asked to improve Old Highway for the length of their parcel; this improvement will involve moving utility facilities, mailboxes and fencing, and they are not creating any additional impact with their project; stated he felt the project being considered today is also a no impact situation; and stated he feels the fee is logical if there is an impact and another process should be found.

- Jan Hamilton, Realty World, noted that the builder asked her to be present for this hearing; advised that Leroy Radanovich spoke at the Board of Realtors meeting recently and mentioned that new ways would be looked at to address the impacts; and urged the Board to consider the applicant's situation in this matter.

- Mr. Wolf further stated they have been trying to sell their property and it is too expensive with two residences - that is why they are trying to divide the property.

Persons speaking in opposition to the project: none.

Comments of a general nature: none.

Staff responded to the input provided and to questions from the Board relative to imposition of the road frontage fee for parcels that front County roads and not for parcels that are set back in, and relative to variations. Jeff Green, County Counsel, noted that if you are on a parcel served by an access other than a County frontage road, the applicant would need to pay for off-site improvements for the easement road; and responded to questions from the Board relative to the possibility of working out a payment schedule with the applicant, and whether this matter could be revisited if the policy changes in the future.

Board commenced with deliberations. (M)Parker, (S)Balmain, Res. 97-44 adopted denying appeal with regards to the off-site improvement requirements; all other conditions imposed by the Planning Commission remain in force; direction was given for Public Works Director to work with the property owners to come up with an identified cost for the road improvement to bring the property frontage on Carter Road to a Class II standard, and to work out a payment schedule, and to bring the matter back to the Board if an agreement is not reached; allow the property owners the opportunity to have the costs reviewed by an engineer; and further direction was given that if the Road Circulation Policy is amended in the future in such a manner that it would result in a reduction of the costs, then the payments would be reduced accordingly. Discussion was held relative to collateral for the payments. Ayes: Balmain, Stewart, Parker; Noes: Pickard; Excused: Reilly. Mrs. Moore noted that they are getting ready to retire and their finances are limited. Hearing was closed.

12:24 p.m. Lunch

2:05 p.m. Ed Johnson, Planning Director;
PUBLIC HEARING to Consider Temporary Borrow Site (Including SMARA and CEQA Exemption) for Materials for Emergency Road Repair Work in Merced River Canyon Following Recent Flooding Events; John Newman, Applicant/APN 11-250-018, Puglizevich, Property Owner

BOARD ACTION: Ed Johnson gave an overview of the application and reviewed the correspondence that was received relative to this hearing. Sarah Williams, Planning Manager, provided a detailed staff report. Staff responded to questions from the Board relative to interpretation of being able to authorize SMARA exemptions as a result of the flood disaster.