TO: Members, City Council
VIA: Jeff Foltz, City Administrator

FROM: Joe C. Heckel, Community Development Director
Tom Last, Planning Director

SUBJECT: Appeal of Planning Commission denial of Use Permit (07PLN-11), a request to delete a condition of approval for an approved project to construct two cabins and carport for 10 vehicles at 1812 E. Main Street

RECOMMENDATION: Open and close public hearing on the appeal, and adopt the resolution and findings in Attachment 1 to deny the appeal and uphold the Planning Commission decision

BACKGROUND: The applicant, Teri Neil, has filed an appeal on a Planning Commission’s denial of a request to delete a previously approved condition of approval. On April 17, 2007, the Planning Commission, by a 4-0 vote, denied a request to delete condition of approval #8. This condition requires the construction of street improvements along East Main Street. The appeal requests the City Council to reverse this decision. The property is located at 1812 East Main Street (APN 35-300-21) in the OP (Office Professional) Zoning District and contains 7 existing cabins which are used for rental purposes.

Previous Approval: On September 19, 2006, the Planning Commission, by a 5-0 vote, approved Use Permit application (06PLN-24). The permit allowed the construction of two cabins and reconstruction of a 10-car carport on a 1.83 acre parcel. The applicant then appealed that decision and requested the City Council modify several conditions of approval. The City Council conducted a public hearing on October 24, 2006. At the conclusion of the hearing, the City Council denied the appeal and upheld the Planning Commission’s decision; however, the Council modified condition #8, eliminating the requirement to install a sidewalk along East Main Street.

Current Request: The applicant is again requesting reconsideration of condition #8. To implement the condition, the applicant is required to install the curb and gutter, relocate storm drains, and construct a retaining wall along East Main Street. The attached letter to the City Council dated March 15, 2007, states the cabins are to be rented to low-income residents and the street improvements make this cost-prohibitive.

As noted in the Planning Commission report, the City Municipal Code requires frontage improvements to be installed as part of any new development. The Code states the Commission can waive the requirement after conducting a public hearing. However, no guidance is offered for waiving the requirement. The Commission struggled with this decision trying to balance the cost of the street improvements with the actual property improvements (two rental cabins and a carport); but, also expressed concern with setting a precedent for future requests to waive street improvements.
The following alternatives are available to the Council in its deliberation:

1) Deny the appeal and support the Planning Commission’s decision. The applicant will be required to install the improvements (Approve Resolution in Attachment 1).

2) Support the appeal and waive the street frontage requirements. The applicant would not be required to install improvements at this time (Approve Resolution in Attachment 2).

3) Continue the item. The Council would need to continue to a date certain to gain additional information and/or explore further alternatives for the project.

Staff recommended the Council support the Planning Commission’s decision.

Please contact us if you have any questions.

Attachments:
1) Resolution in support of the decision of the Planning Commission
2) Resolution in support of appeal
3) Appeal letter and applicant’s plans
4) Staff Report to Planning Commission for meeting of April 17, 2007
5) Minutes of Planning Commission meeting of April 17, 2007
6) Approval letter and conditions of approval, dated October 25, 2007

Cc: Members, Planning Commission
    Appellant, Teri Neil
    Department Heads
    File 07PLN-11