

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
ACTION AGENDA SUMMARY

DEPT: Board of Supervisors

BOARD AGENDA # \*A-2

Urgent  Routine

AGENDA DATE March 3, 2009

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval to Set a Public Hearing on March 24, 2009, at 9:15 a.m., to Consider an Appeal of the Planning Commission's Denial of Vesting Tentative Subdivision Map Application No. 2006-06 and Exception Application No. 2008-02 - Knights Ferry Overlook

STAFF RECOMMENDATIONS:

Approve setting a public hearing on March 24, 2009, at 9:15 a.m., to consider an appeal of the Planning Commission's denial of Vesting Tentative Subdivision Map Application No. 2006-06 and Exception Application No. 2008-02 - Knights Ferry Overlook

FISCAL IMPACT:

There is no fiscal impact associated with this request.

BOARD ACTION AS FOLLOWS:

No. 2009-125

On motion of Supervisor Chiesa, Seconded by Supervisor Grover  
and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Grover, Monteith, and Chairman DeMartini

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

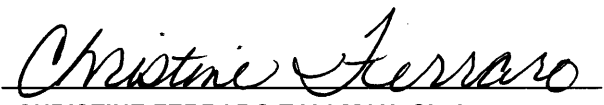
1) X Approved as recommended

2) \_\_\_\_\_ Denied

3) \_\_\_\_\_ Approved as amended

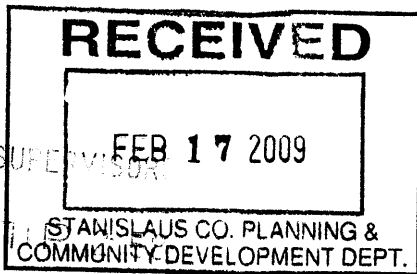
4) \_\_\_\_\_ Other:

MOTION:



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.



BOARD OF SUPERVISORS

FEB 17 2009

STANISLAUS CO. PLANNING & COMMUNITY DEVELOPMENT DEPT.

CK # 757  
\$ 580-  
2-17-09  
E. Rosa

Nicholas Honchariw, Trustee  
Honchariw Revocable Trust  
3 Via Paraiso West  
Tiburon CA 94920

Board of Supervisors  
Stanislaus County  
1010 10<sup>th</sup> Street  
Modesto CA 95354

February 13, 2009

SUBJECT: VESTING TENTATIVE SUBDIVISION MAP APPLICATION NO. 2006-06 & EXCEPTION APPLICATION NO. 2008-02 --- KNIGHTS FERRY OVERLOOK

APNs: 002-044-03 & 002-044-004

Applicant Nicholas Honchariw, trustee, appeals the Planning Commission's denial of his application on February 5, 2009. Attached is the Department notice together with a check in the amount of \$580.

The Commission's determination was made in abuse of its discretion on incorrect and / or inadequate findings of fact and contrary to law. A decision must be based on adequate findings of fact. Govt C Sec. 66452.5(e). Department Staff had made all of the findings of fact necessary for approval and recommended approval in the Staff Report dated February 5, 2009 (incorporated by this reference). The Commission did not make any specific contrary findings of fact for its adverse determination, but various Commission members voting to deny the application echoed several claims made by representatives of the Knights Ferry Municipal Advisory Council ("MAC") and neighbors. As summarized below, however, some of the claims are simply wrong, and none constitutes an adequate finding of fact.

**Application:**

The application subdivides two adjacent parcels owned by Applicant in the Knights Ferry area. One parcel of approximately 20 acres is zoned A-2-5, allowing 5-acre parcels with a residence, and the application proposes three 5-acre parcels with a remainder. The other parcel of approximately 13 acres is entirely within the Knights Ferry Historical Site District and is zoned H-S, with no minimum zoning except for water and sewer / septic requirements. Under the County General Plan as well as the specific plan for Knights Ferry, the H-S zone is designed for development (while the surrounding land is zoned for agriculture). The application proposes four 1-acre parcels, a 1/2 acre parcel already developed (served by public water), and a remainder of approximately 8 acres preserving most of the sensitive woodlands of the property intact.

FEB 17 2 58 PM '09  
BOARD OF SUPERVISORS

### **Planning Commission Determination:**

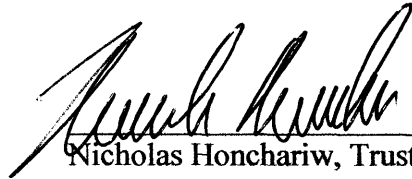
**Because the role of the Planning Commission is purely advisory for subdivision applications under county ordinance, a hearing will be de novo. However, let me capsulize the objections raised and identify their various errors and inadequacies.**

**Opposition was focused on the four 1-acre parcels. No opposition was raised to the subdivision of the A-2-5 parcel into three 5-acre parcels plus remainder. In fact, that was expressly approved by the MAC Chairman and offered as a model by others. Nor was there any opposition to the creation of the single ½ acre parcel in the H-S zone, already developed with a residence, or to the remainder of over 12 acres spanning both parcels, preserving the wooded terrain of the property largely intact.**

**The objections to the four 1-acre parcels fell into the following categories:**

- 1) Traffic / Safety. Unfortunately, opponents misrepresented at the hearing that Cemetery Road was only 13 ½ feet wide, a claim picked up by 2 or 3 of the Commission members. This of course would not allow two cars to pass each other. In fact, as known by the Department and confirmed by our engineers, the roadway exceeds 20' in width. The Department found no "significant traffic impact" upon county roads, and its recommended conditions were all incorporated into the Conditions of Approval.**
- 2) Water. Even though the four 1-acre lots are in its service area, the local water district, Knights Ferry Community Services District, has refused to provide service (necessitating the Exception). The 1-acre lots comply with zoning requirements for well water, and, in fact, well water is enjoyed by all of the neighboring residents, without problems. There was no evidence to the contrary. In accordance with Department policy, no water tests were required or conducted now, but the Conditions of Approval expressly require suitable wells as a condition of issuance of building permits.**
- 3) Septic Systems. The 1-acre lots comply with zoning requirements for septic systems (and many lots within the water district are much smaller). Again no evidence was offered that septic systems would be inadequate. The Conditions of Approval require engineered systems for wastewater disposal for all proposed parcels.**
- 4) Density. Ultimately this was the heart of the opposition --- various neighbors are simply unhappy with 1-acre lots. This objection was initially made by the MAC Chairman upon the misconception that at least two of the 1-acre lots (those bordering Frymire Road) were in the A-2-5 zone. But all of the 1-acre lots are within the H-S zone, and the General Plan expressly envisions density of 1 to 7 residences per net acre ---- the proposed 1-acre lots are already at the limit of that guideline. Reducing density further would fly in the face of the General Plan, the specific plan for Knights Ferry, and California statutory requirements for housing developments.**

The subdivision proposal has been carefully crafted to comply with the General Plan, the specific plan for Knights Ferry, and local zoning, while retaining the sensitive wooded area of the property outside proposed development. As found by Department Staff, it complies will all applicable requirements and guidelines and deserves approval.

A handwritten signature in black ink, appearing to read "Nicholas Honchariw", written over a horizontal line.

Nicholas Honchariw, Trustee

**Honchariw Note**

3 Via Paraiso West  
Tiburon CA 94920  
415 435 9173  
fax 415 435 9640  
[nhpart@gmail.com](mailto:nhpart@gmail.com)

**To: Joshua Mann,  
Associate Planner**

**From: Nick Honchariw**

**Date: February 25, 2009**

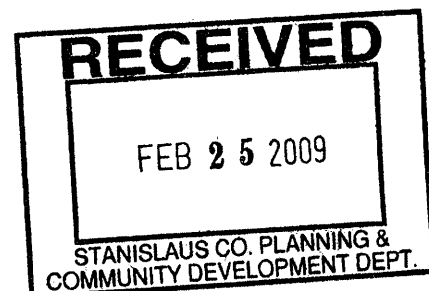
**Pages (incl cover): 1**

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**Re: Knights Ferry Overlook**

**Good morning,**

**I understand that my appeal hearing is set for March 24. This shall serve to confirm my waiver of the 30-day hearing requirement under local ordinance Sec. 20.68.040(B).**





**BOARD OF SUPERVISORS**

**William O'Brien, 1<sup>st</sup> District**  
**Vito Chiesa, 2<sup>nd</sup> District**  
**Jeff Grover, 3<sup>rd</sup> District**  
**Dick Monteith, 4<sup>th</sup> District**  
**Jim DeMartini, 5<sup>th</sup> District**

1010 10th Street, Suite 6500, Modesto, CA 95354  
Phone: 209.525.4494 Fax: 209.525.4410

February 26, 2009

Nicholas Honchariw, Trustee  
Honchariw Revocable Trust  
3 Via Paraiso West  
Tiburon, CA 94920

RE: Appeal of the Planning Commission's Denial of Vesting Tentative Subdivision  
Map Application No. 2006-06 and Exception Application No. 2008-02 - Knights  
Ferry Overlook

Dear Mr. Honchariw:

We received your Letter of Appeal regarding the Planning Commission's denial of Vesting Tentative Subdivision Map Application No. 2006-06 and Exception Application No. 2008-02 - Knights Ferry Overlook. An item requesting the Board of Supervisors to schedule a public hearing on Tuesday, March 24, 2009 at 9:15 a.m., to consider this appeal, will be on the Board of Supervisors' March 3, 2009, agenda.

For further information, please call the Planning and Community Development Department at 525-6330 or the Board of Supervisors at 525-6415.

Sincerely,

Susan E. Seibert  
Deputy Clerk of the  
Board of Supervisors

cc: Supervisor William O'Brien, District 1  
Planning & Community Development Department

NOTICE OF PUBLIC HEARING

APPEAL OF THE PLANNING COMMISSION'S DENIAL OF VESTING  
TENTATIVE SUBDIVISION MAP APPLICATION NO. 2006-06 AND  
EXCEPTION APPLICATION NO. 2008-02 - KNIGHTS FERRY OVERLOOK

NOTICE IS HEREBY GIVEN that on March 24, 2009 at the hour of 9:15 a.m., the Stanislaus County Board of Supervisors will meet in the Chambers, Basement Level, Tenth Street Place, 1010 10th St., Modesto, CA, to consider an appeal of the Planning Commission's denial of Vesting Tentative Subdivision Map Application No. 2006-06 and Exception Application No. 2008-02 - Knights Ferry Overlook, a request to divide a 33.70-acre parcel to create 8 parcels ranging in size from 0.50 to 5.00 acres with a 12.03 acre "Remainder". The property is split zoned, consisting of both A-2-5 (General Agriculture) and H-S (Historical Site District). An Exception is being requested on the four 1.00 acre parcels which would not have municipal water service/connection from Knights Ferry Community Services District. The property is located at the southeast corner of Cemetery and Frymire Roads, in the Community of Knights Ferry. A Mitigated Negative Declaration will be considered. APN: 002-044-003 and 002-044-004

NOTICE IS FURTHER GIVEN that at the said time and place, interested persons will be given the opportunity to be heard. Material submitted to the Board for consideration (i.e. photos, petitions, etc.) will be retained by the County. If a challenge to the above application is made in court, persons may be limited to raising only those issues they or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board. For further information call (209) 525-6330.

BY ORDER OF THE BOARD OF SUPERVISORS

DATED: March 3, 2009

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk of  
the Board of Supervisors  
of the County of Stanislaus,  
State of California.

BY: Elizabeth A. King, Assistant Clerk



2009 MAR 13 PM 2:12

March 13, 2009

### NOTICE OF PUBLIC HEARING

**NOTICE IS HEREBY GIVEN THAT** the Stanislaus County Board of Supervisors will hold a public hearing on **Tuesday, March 24, 2009**, starting at **9:15 A.M.** in the Joint Chambers, 1010 10<sup>th</sup> Street, Basement Level, Modesto, California, to consider the following:

**APPEAL OF PLANNING COMMISSION DECISION FOR VESTING TENTATIVE SUBDIVISION MAP APPLICATION NO. 2006-06 & EXCEPTION APPLICATION NO. 2008-02 - KNIGHTS FERRY OVERLOOK** - This is a request to divide a 33.70-acre parcel to create 8 parcels ranging in size from 0.50 to 5.00 acres with a 12.03 acre "Remainder." The property is split zoned, consisting of both A-2-5 (General Agriculture) and H-S (Historical Site District). An Exception is being requested on the four 1.00-acre parcels which would not have municipal water service/connection from Knights Ferry Community Services District. The property is located at the southeast corner of Cemetery and Frymire Roads, in the Community of Knights Ferry.

The property is further identified as Assessor's Parcel No. 002-044-003 & 002-044-004

The Board of Supervisors will also consider approval of a Mitigated Negative Declaration for this item.

At the above noticed time and place, all interested persons will be given an opportunity to speak.

Materials submitted to the Board of Supervisors for consideration (i.e., photos, slides, petitions, letters, etc.) will be retained by the County and cannot be returned.

If you challenge the above item in court, you may be limited to raising only those issues raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Supervisors, at or prior to, the public hearing.

For further information, please call (209) 525-6330, or email:[planning@mail.co.stanislaus.ca.us](mailto:planning@mail.co.stanislaus.ca.us).



PROOF OF SERVICE BY MAIL - CCP 1013a, 2015.5

I declare that: I am employed in the County of Stanislaus, California.

I am over the age of eighteen years and not a party to the within entitled cause; my business address is:

Stanislaus County Administration Building  
Department of Planning & Community Development  
1010 10<sup>th</sup> Street, Suite 3400  
Modesto, CA 95354


On March 13, 2009, I served the attached Notice of Public Hearing  
(Date)

APPEAL OF PLANNING COMMISSION DECISION FOR VESTING TENTATIVE SUBDIVISION  
MAP APPLICATION NO. 2006-06 & EXCEPTION APPLICATION NO. 2008-02 - KNIGHTS FERRY  
OVERLOOK on the parties listed below in said cause, by placing a true copy thereof enclosed in  
a sealed envelope with postage thereon fully prepaid, in the United States mail at Modesto,  
California, addressed as follows:

SEE ATTACHED LIST

I declare under penalty of perjury that the foregoing is true and correct, and that this  
declaration was executed on March 13, 2009, at Modesto, California.  
(Date)

Crystal D Rein  
(Type or print name)

  
Signature

**VESTING TENTATIVE SUBDIVISION MAP APPLICATION NO. 2006-06 & EXCEPTION APPLICATION NO. 2008-02 - KNIGHTS FERRY OVERLOOK**

Attachment A

Distribution List

X	AGRICULTURE COMMISSIONER	X	PG&E
	AIRPORT LAND USE COMMISSION: JOSHUA MANN	X	PUBLIC WORKS - ANGIE HALVERSON, JUDY LINDSAY - DRAINAGE BILL CARDOZA MORGAN RD TRAFFIC
X	BUILDING PERMITS DIVISION - DENNIS WISTER		REDEVELOPMENT
X	CAL TRANS District 10	X	REGIONAL WATER QUALITY
	CITY OF:		RISK MANAGEMENT
X	COMMUNITY SERVICES DIST: KNIGHTS FERRY	X	StanCOG
X	CORPS OF ENGINEERS	X	SCHOOL DIST 1: KNIGHTS FERRY
X	COUNTY COUNSEL	X	SCHOOL DIST 2: OAKDALE
X	ENVIRONMENTAL RESOURCES	X	SHERIFF
X	FIRE PROTECTION DIST: OAKDALE	X	STANISLAUS COUNTY FARM BUREAU
X	STANISLAUS FIRE PREVENTION BUREAU	X	STANISLAUS ERC
X	FISH AND GAME	X	STATE CLEARINGHOUSE
X	HOSPITAL DIST: OAK VALLEY		STATE LANDS BOARD
X	IRRIGATION DIST: OAKDALE	X	SUPERVISOR DIST 1: O'BRIEN
X	LAFCO	X	TELEPHONE COMPANY: AT&T
X	MOSQUITO DIST: EASTSIDE		TRIBAL CONTACTS
X	MOUNTAIN VALLEY EMERGENCY SERVICES		TUOLUMNE RIVER TRUST
X	MUNICIPAL ADVISORY COUNCIL: KNIGHTS FERRY	X	US FISH AND WILDLIFE
	NATURAL RESOURCES CONSERVATION	X	VALLEY AIR DIST
X	PARKS AND FACILITIES		WATER DIST:
X	PUBLIC WORKS - TRANSPORTATION		DEPARTMENT OF CONSERVATION (certified)
X	SURROUNDING LAND OWNERS (on file with the Clerk to the Board of Supervisors)	X	UNITED STATES MILITARY AGENCIES (SB 1462) (5 agencies)

**PROOF OF PUBLICATION**  
(2015.5 C. C. P.)

BOARD OF SUPERVISORS  
2009 MAR 16 P 2 16

This space is for the County Clerk's Filing Stamp

STATE OF CALIFORNIA,

County of Stanislaus

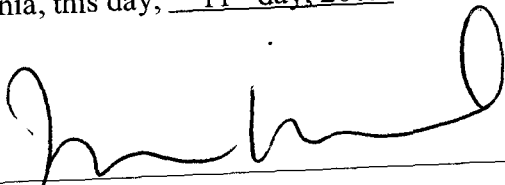
I am a citizen of the United States and a resident of the county aforesaid; I am over the age of twenty-one years, and not a party to or interested in the above entitled matter. I am the principal clerk of THE OAKDALE LEADER, 122 South Third Avenue, Oakdale, California, a newspaper of general circulation, published in Oakdale, California in the City of Oakdale, County of Stanislaus, and which newspaper has been adjudged a newspaper of general circulation, by the Superior Court of the County of Stanislaus, State of California. That the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

March 11,  
all in the year 2009.

I certify or declare) under penalty of perjury that the foregoing is true and correct.

Dated at Oakdale,

California, this day, 11<sup>th</sup> day, 2009.



Signature

Proof of Publication of

**NOTICE OF PUBLIC HEARING**

**DENIAL OF VESTING TENTATIVE  
SUBDIVISION**

**PUBLIC NOTICE**

**NOTICE OF PUBLIC HEARING .**  
APPEAL OF THE PLANNING COMMISSION'S DENIAL OF VESTING TENTATIVE SUBDIVISION MAP APPLICATION NO. 2006-06 AND EXCEPTION APPLICATION NO. 2008-02 - KNIGHTS FERRY OVERLOOK

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BY ORDER OF THE BOARD OF SUPERVISORS

DATED: March 3, 2009

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk  
of the Board of Supervisors  
of the County of Stanislaus,  
State of California.

BY: Elizabeth A. King, Assistant Clerk

MARCH 11, 2009

OL#09-146