TO:    HONORABLE CITY COUNCIL
FROM:   CITY MANAGER         DEPARTMENT:  PLANNING AND COMMUNITY ENVIRONMENT
DATE:   MAY 7, 2007          CMR:  222:07

SUBJECT:  4249 EL CAMINO REAL [06PLN-00267]: REQUEST BY JUNIPER HOMES FOR APPROVAL OF A RECORD OF LAND USE ACTION FOR A TENTATIVE MAP TO CREATE TWO SINGLE FAMILY RESIDENTIAL PARCELS AND A REMAINDER LOT; AND APPROVAL OF A NEGATIVE DECLARATION. ZONE DISTRICT: R-1, RM-15.

RECOMMENDATION
Staff and the Planning and Transportation Commission (PTC) recommend that the City Council approve the proposed Tentative Map to create two single family residential parcels and a remainder lot, based upon the findings and conditions contained within the Record of Land Use Action (Attachment A) and approve a Negative Declaration (Attachment B).

COMMISSION REVIEW AND RECOMMENDATION
At the public hearing held on January 31, 2007, the PTC voted (6-0-0-1, Commissioner Holman absent) to accept staff’s recommendation. The PTC recommended that staff include in the Conditions of Approval a condition that would require a new public sidewalk in front of the adjacent parcel to the southeast. The Conditions of Approval are contained within Section 6 of the Summary of Land Use Action document (Attachment A). Prior to the PTC meeting, staff received no written comments from the public.

In 2005, the applicant originally requested a Tentative Map to create a five lot subdivision along Wilkie Way on the Elk’s Lodge site. During the application review process, the property owner restricted the applicant to a three lot subdivision, due to a lease agreement between the Elk’s Lodge and The Early Learning Institute (ELI), which was operating in the southeast corner of the site, in the area of the proposed subdivision. ELI wanted to remain in operation at the Elk’s Lodge until a new school site was found. The applicant revised the application and requested a Parcel Map to create three single-family lots. The parcel map process is used for minor subdivisions that create four or fewer lots. The parcel map was approved in October 2006. The
three-lot subdivision did not affect the school buildings, and has been designed to be in compliance with all codes and regulations governing minor subdivisions.

The City has approved a Conditional Use Permit for ELI to relocate on a site on West Bayshore Road. The property owner has permitted the applicant to proceed with the remaining two lot subdivision, which would result in the five-lot configuration that was originally intended for the site. Although the applicant’s request is for only two lots, the Subdivision Map Act requires that any further division of the original parcel may only be accomplished through the Tentative Map and Final Map processes.

The PTC discussed the issue of multiple map applications to subdivide the existing Elk’s Lodge site. The PTC was concerned that the project would not be required to comply with the Below Market Rate (BMR) program, due to the apparent phasing or piecemealing of the Elk’s Lodge site. Although the request for the proposed two-lot subdivision has followed a recently approved parcel map for a three lot subdivision, staff does not consider the projects to be piecemealed due to the unique site constraints related to the lease between ELI and the Elk’s Lodge.

The two-lot subdivision would not be subject to the BMR program, in that the BMR program applies to subdivisions of five or more lots. Staff and the project applicant have agreed that the previously approved three-lot subdivision would contribute to the City’s BMR program. Staff and the applicant have accepted a BMR agreement that includes a fifteen percent BMR requirement based upon the fair market value of the finished lots. Because the BMR requirements results in less than a full lot being required (3 times 15% equals 45%) the payment of in-lieu fees instead of a buildable parcel or lot is allowable. The BMR agreement is contained in Attachment E.

The PTC staff report and meeting minutes for this hearing have been provided as Attachments B and C. Prior to the PTC meeting, staff received a letter from Roger Kohler regarding the design of the homes to be constructed and the need for a sidewalk at the adjacent parcel to the southwest.

**RESOURCE IMPACT**
There is no direct impact on City resources associated with the action recommended in this staff report.

**POLICY IMPLICATIONS**
No changes in the Comprehensive Plan or Zoning Ordinance are required for this project. The tentative map complies with the City’s policies set out in the Comprehensive Plan, Zoning Ordinance Municipal Code, and the Subdivision Map Act.

**ENVIRONMENTAL REVIEW**
An Environmental Impact Assessment and a Negative Declaration was prepared for the project. The Environmental Assessment found that the impacts produced by the project, including the development of the single-family homes, would have less than significant impacts on the environment. The Negative Declaration is contained in Attachment B. During the architectural review process for the construction of the two homes, standard conditions of
approval would be applied to the project that would further minimize any impacts on the environment.

PREPARED BY:

____________________________________
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DEPARTMENT HEAD:

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STEVE EMSLIE
Director of Planning and Community Environment

CITY MANAGER APPROVAL:

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EMILY HARRISON
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ATTACHMENTS
A. Record of Land Use Action
B. Negative Declaration
C. Planning and Transportation Commission Staff Report, January 31, 2007
D. Planning and Transportation Commission Meeting Minutes
E. Below Market Rate Agreement Letter with Attachments
F. Tentative Map (Council Members Only)

COURTESY COPIES
Ric Denman, Juniper Homes
Jim Baer, Premier Properties