DEVELOPMENT SERVICES DEPARTMENT

County of EL DORADO | http://www.co.el-dorado.ca.us/devservices | **PLANNING SERVICES**

PLACERVILLE OFFICE:
2850 FAIRLANE COURT
PLACERVILLE, CA. 95667
(530) 621-5355
(530) 642-0508 Fax
Counter Hours: 7:30 AM to 4:30 PM
planning@co.el-dorado.ca.us

LAKE TAHOE OFFICE:
3368 LAKE TAHOE BLVD., SUITE 302
SOUTH LAKE TAHOE, CA 96150
(530) 573-3330
(530) 542-9082 Fax
Counter Hours:7:30 AM to 4:30 PM
tahoebuild@co.el-dorado.ca.us

EL DORADO HILLS OFFICE:
4950 HILLSDALE CIRCLE, SUITE 100
EL DORADO HILLS, CA 95762
(916) 941-4967 and (530) 621-5582
(916) 941-0269 Fax
Counter Hours: 7:30 AM to 4:30 PM
planning@co.el-dorado.ca.us

MEMORANDUM

DATE: May 3, 2006 Agenda of: June 8, 2006

TO: Planning Commission Item #: 11.d.

FROM: Peter Maurer, Deputy Director - Planning Services

SUBJECT: Interpretation of General Plan Policies

Background:

With the ratification by the voters of the 2004 General Plan in March of 2005, County staff has been applying the policies of the plan to discretionary and ministerial projects for the past year. During that time, we have found that the language of some of the policies is unclear, and has been subject to various interpretations. To ensure that there is a consistent approach to applying these policies, Development Services Department staff, along with County Counsel, has spent numerous hours discussing those policies that have created the highest amount of confusion, and have attempted to create clear policy interpretations. The purpose of this memorandum and the subsequent discussion at your June 8, 2006, hearing, is to review those interpretations with the Commission, determine if you concur with them, make any needed changes to those interpretations, and to identify those policies that clearly require an amendment to better articulate the purpose and intent of the policy.

Each of the policies that have been reviewed by the management team of the department (Director, Deputy Directors, Principal Planners, and Branch Managers) is listed below with a description of the issue and our proposed interpretation. Where the policy requires, in our opinion, modification of the language to clarify its intent, suggested language changes and alternatives are provided. Although any changes are intended to be minimal, and solely for the purpose of clarification, a formal General Plan text amendment will be necessary to facilitate that change, and staff will request direction from your commission in that regard.

Separate review and consideration of a few of the more controversial and complex policies will be provided under separate agenda items. These include Policies 7.1.2.1 (Restrictions on development of slopes of 30 percent or more), 7.3.3.4 (Stream setback requirements), 7.4.4.4 and 7.4.5.2 (Woodland and oak tree protection), and 8.1.3.2 (Agricultural setbacks).

POLICY REVIEW:

2.2.1.2 Multifamily Residential Land Use Designation Description

> *This land use designation identifies those areas suitable for high-density, multifamily structures such as apartments, single-family attached dwelling units (i.e., air-space condominiums, townhouses) and multiplexes. Mobile home parks, as well as existing and proposed manufactured home parks, shall also be permitted under this designation. Lands identified as MFR shall be in locations with the highest degree of access to transportation facilities, shopping and services, employment, recreation, and other public facilities. The minimum allowable density is five dwelling units per acre, with a maximum density of 24 dwelling units per acre. The provision of single-family attached dwelling units in the MFR land use designation is subject to the use of planned development design concepts which may result in zipper-lot zero lot line, cottage-type, or comparable developments. Except as provided in Policy 2.2.2.3, this designation is considered appropriate only within Community Regions and Rural Centers.*

Issue: **Can detached units be allowed?**

The Planning Commission addressed this issue at its February 23, 2006 meeting, and determined that the unit type was not an issue and that detached units are allowed provided that the minimum density standards of Table 2-2 are met. A follow-up question is whether one, and only one, single family residential unit is permitted.

Proposed Interpretation:

> Until such time that the Zoning Ordinance is updated, on lands designated Multifamily Residential and zoned Limited Multifamily Residential (R2) or Multifamily Residential (RM) a single family residential unit may be constructed provided that its location and design will not preclude the future use of the site for multifamily residential development. This is based, in part, on the fact that the existing ordinance permits any use allowed by right in the One-family Residential (R1) Zone District in both of the multifamily residential zone districts. (17.28.100.A and 17.28.140.A)

Table 2-4 – Land Use Designation and Zoning Consistency Matrix

> (See attached Table.)

Issue: **Is strict consistency with this chart required, or is there flexibility for the decision maker to make individual determinations based on the intent of each district or designation and the full range of allowable uses?**

There is no accompanying policy statement associated with this table, and without any language that provides such flexibility, strict interpretation must be applied. However, there are noticeable anomalies in the table, such as Exclusive Agricultural (AE) being an appropriate zone district in

the Natural Resources (NR) designation but not Planned Agricultural (PA), even though the permitted uses in each zone are identical.

Recommendation:

Initiate a General Plan amendment to amend the table and provide a new policy that would provide guidance toward the use of the table, providing appropriate flexibility to the Planning Commission and Board of Supervisors.

Policies 2.2.3.1, 2.2.3.2, 2.2.5.4, and 2.2.5.13 – Planned Development Open Space Requirements

2.2.3.1 – The Planned Development (-PD) Combining Zone District, to be implemented through the zoning ordinance, shall allow residential, commercial, and industrial land uses consistent with the density specified by the underlying zoning district with which it is combined. Primary emphasis shall be placed on furthering uses and/or design that provide a public or common benefit, both on- and off-site, by clustering intensive land uses to minimize impact on various natural resources, avoid cultural resources where feasible, minimize public health concerns, minimize aesthetic concerns, and promote the public health, safety, and welfare. A goal statement shall accompany each application specifically stating how the proposed project meets these criteria.

A. The major components of a Planned Development in residential projects shall include the following:

1. Commonly owned or publicly dedicated open space lands of at least 30 percent of the total site. Within a community area, the commonly owned open space can be developed for recreational purposes such as parks, ball fields, or picnic areas. Commonly owned open space does not include space occupied by infrastructure (e.g., roads, sewer, and water treatment plants).

2. Clustered housing units or lots designed to conform to the natural topography.

B. Non-residential planned developments shall be accomplished through the Zoning Ordinance.

2.2.3.2 – The calculation of development density for purposes of Planned Developments shall be based on the maximum density permitted by the underlying zone district(s). No density shall be attributed to bodies of water, such as lakes, rivers, and perennial streams, excluding wetlands.

2.2.5.4 - All development applications which have the potential to create 50 parcels or more shall require the application of the Planned Development combining zone district. However, in no event shall a project require the application of the Planned Development combining zone district if all of the following are true: (1) the project does not require a

General Plan amendment; (2) the project has an overall density of two units per acre or less; and (3) the project site is designated High-Density Residential.

2.2.5.13 – Land uses adjacent to or surrounding airport facilities shall be subject to location, use, and height restrictions consistent with the Comprehensive Airport Land Use Plan.

Within Safety Zone 3, the maximum permitted density for residential development shall not exceed one dwelling unit per five acres without the application of the Planned Development Combining Zone District. The planned development zoning overlay shall not be applied unless it is found to be compatible with the health, safety, and welfare of the public. All such applications shall be reviewed by the appropriate airport commission.

Open Space Land is further defined in the General Plan Glossary as follows:
Any parcel or area of land or water that is essentially unimproved and devoted to an open space for the purposes of:

(1) the preservation of natural resources;
(2) the managed production of resources;
(3) outdoor recreation; and/or
(4) public health and safety.

Issue:
A. Do bodies of water count as part of the common open space?
B. Do golf courses count as part of the common open space?
C. Does the 50 lot threshold apply to residential and non-residential parcels?
D. Are there certain types or sizes of projects for which the 30 percent open space requirement should not apply?
E. What should be considered as "commonly owned or publicly dedicated" open space?

Policy 2.2.3.1 establishes the desire by the County to encourage and require planned developments to further various design and development goals with new development in the County, and sets forth two major components of a residential planned development: 1.) 30 percent commonly owned or publicly dedicated open space, and 2.) Clustered housing or lots conforming to topographical constraints. Beyond those two basic requirements, the planned development is intended to provide a great deal of flexibility and innovation, in an attempt to encourage creative and responsive development. The open space requirement is a key part of providing the public or common benefit, whether it is passive, such as wildlife habitat or scenic protection areas, or more active such as ball fields and playgrounds. While it is clear that bodies of water do not count toward the density of the project, however, there is no reason why lakes or ponds could not count as open space, since they provide wildlife habitat and a scenic benefit to the residents of the project and potentially the greater community.

Shortly after adoption of the same policy language in the 1996 General Plan, the Commission determined that a golf course was a private commercial use, not a public or common benefit. However, it may be appropriate to revisit that determination. A golf course, while not a land use that benefits all residents, still has certain open space values and is similar in many ways to a ball field or playground. Some of the similarities are that the vegetation is not native, they are not necessarily used by everyone, and they provide some benefit to the residents within the project. The primary difference is that typically a golf course requires paid entry and membership and is, therefore, not available to the general public or all residents of the project and was viewed by the former Commission as a commercial use.

It appears clear that there was a distinction made between residential and non-residential development with regard to the 30 percent open space requirement by having two separate subsections in Policy 2.2.3.1, but Policy 2.2.5.4 does not differentiate between the two. Staff believes that the policies require a planned development for both residential and non-residential development if the total number of parcels is 50 or more, including common area parcels.

There are a number of projects that are in the process of being reviewed for which the application of the 30 percent open space requirement is problematic. These include small, infill projects on 5- to 10-acre parcels in the Cameron Park area near the airport (Policy 2.2.5.13 requires a planned development for any project with a density of more than 1 dwelling unit per 5 acres in Safety Zone 3.), multifamily projects with multiple parcels, and particularly condominium conversions. All of these require the establishment of 30 percent open space, because they require a planned development application.

Most of the smaller infill projects, located primarily on the west side of the airport in Cameron Park in the Cambridge Road/Woodleigh Road area, are surrounded by standard subdivisions at a density of two to three units per acre. To create a substantially different housing product on smaller lots (clustering 10 to 12 units on 3.5 acres while setting aside 1.5 acres for example) will often run into significant community opposition and may arguably be incompatible with the surrounding developed land use.

Multifamily projects, particularly new townhouse projects and condominium conversions, face similar problems but the issue is either that the project is already built and does not have sufficient open space to meet the standard as is the case for conversions, or the requirement for the open space, when added to parking, landscaping and other standards, reduces the potential number of units to the point where the project cannot meet the minimum density standards for the multifamily residential land use designation, or it raises the overall cost per unit to the point where it is not financially feasible to proceed, or it pushes the unit price above the affordability range, limiting our ability to meet our Housing Element goals. While it may be possible to develop an interpretation that provides some level of flexibility in applying these policies, it is probably more appropriate to modify the policies to provide for clarification or exemptions for these types of circumstances.

One of the most challenging aspects of this policy has been determining what part of a project that is not developed with structures or infrastructure qualifies as open space. It is relatively clear with projects on larger parcels, where separate parcels are set aside as open space or parkland, but smaller residential projects, particularly condominium conversions and multifamily projects, have difficulty meeting this standard. Often every square foot of land is identified by an applicant as open space, even if it is just a few square feet of landscaping in front of an apartment unit or between driveways.

There are numerous options for considering what should qualify as open space, but based on the definition in the glossary, it would appear that the intent of the plan was that it was more than simply any bit of land not devoted to buildings, driveways, roads and other infrastructure. Open space land would include park and recreation land including areas of bicycle and hiking trails, land set aside for habitat preservation or passive recreation such as wetland areas or oak woodlands, agricultural or timberlands set aside in a planned development application consistent with policies of the Agricultural Element, and buffer or setback areas to protect adjacent resources or to separate incompatible land uses.

Attached are several examples that show different types of projects and how open space was included in them. Exhibit 1 shows a typically clustered single family detached project, with a common lot set aside. This is the typical situation where a block of land is set aside to meet the open space requirement. Exhibits 2 and 3 show multifamily, attached projects with different proposals for open space. Usually with a multifamily project, more than one area is set aside. Areas may include a tot lot or recreation area such as a pool or turf area, perimeter separation from surrounding development, and larger areas for pathways that connect to exterior open space or recreation areas. Although the type of project shown in Exhibit 2 more closely represents what staff believes to be an appropriate application of the policy, it is staff's opinion that the smaller landscaped islands do not represent open space as intended by the policy.

Exhibit 3 utilizes private backyards and all other portions of the site that do not have structures as part of the open space. Staff believes that this is an inappropriate application of the policy as it is written, primarily because some of the areas identified as open space does not meet any of the criteria identified in the glossary for open space, i.e., natural resource areas, recreation areas, resource production (agriculture or forestry), or to protect the public safety. Furthermore, in some cases, it may not be "commonly owned or publicly dedicated." However, with existing development that is proposed to be converted to condominiums, unless the project previously provided the required open space, it is not possible to meet the requirement. Staff suggests that an exemption for condominium conversions would be appropriate, especially since there is a 10 or 20-year waiting period for conversions pursuant to Policy HO-3g.

<u>Proposed interpretation</u>:

> Bodies of water cannot be counted as part of the gross acreage for density purposes but can be included as a part of the required 30 percent open space. Golf courses can also be included as part of the open space.

The mandatory planned development requirement applies to residential and non-residential development.

Non-residential development is not required to provide 30 percent open space.

The 30 percent open space requirement can be satisfied with land dedicated to the following uses:

- Undisturbed natural resource areas such as oak woodlands or other native habitat
- Active or passive recreation areas
- Agricultural of forest land
- Visual buffers or screening
- Bikeway or pathway connections to exterior open space or recreation facilities

Said open space areas cannot be enclosed within a fence or otherwise set aside for the exclusive use of one tenant or lot owner.

Recommendation:

Initiate a General Plan amendment to modify policies related to mandatory open space, including but not limited to Policies 2.2.3.1, 2.2.3.2, and 2.2.5.13, to provide exceptions for smaller parcels, infill projects, and condominium conversions to the mandatory open space standards.

Policy 2.2.4.1 – Density Bonus

Planned Developments shall be provided additional residential units (density bonus), in accordance with A through C, for the provision of otherwise developable lands set aside for public benefit including open space, wildlife habitat areas, parks (parkland provided in excess of that required by the Quimby Act), ball fields, or other uses determined to provide a bona fide public benefit. (See example below.)

A. Maximum Density: The maximum density created utilizing the density bonus provisions shall not exceed the maximum density permitted by the General Plan land use designation as calculated for the entire project area except as provided for by Section B.

B. In addition to the number of base units, one and one half (1.5) dwelling units may be provided for Planned Developments within a planning concept area for each unit of developable land dedicated to public benefit. In calculating the maximum density permitted by the General Plan land use designation, the County shall include acreage of undevelopable land, except as excluded in Policy 2.2.3.2.

C. Public Benefit: Lands set aside for public benefit, as used herein, shall be those lands made available to the general public including but not limited to open space areas, parks, and wildlife habitat areas.

Issues:
1. **How is this implemented?**
2. **Are areas of 30 percent slope counted to establish density?**
3. **Is the maximum base density based on the underlying zoning or general plan land use designation?**
4. **What is the relationship to the affordable housing density bonus?**
5. **What constitutes "public benefit"?**
6. **How is the base density calculated when there are multiple land use designations?**

Based on the first sentence of the policy, it is clear that this program is implemented through a planned development application.

The only part of a parcel that has been specifically identified as not being counted for density purposes are bodies of water, excluding wetlands (Policy 2.2.3.1), therefore, density calculations are based on gross density, including those areas of steep slopes or that might otherwise be constrained.

The policy also refers to the "maximum density permitted by the General Plan", so it would seem clear that for the provisions of this policy, it is consistency with the General Plan land use density and intensity of development that is at issue. Where property has more than one land use designation, the land area for each designation should be calculated separately and then added together. The bonus calculations would be also based on the underlying base land use, i.e. the location of the open space would determine the number of bonus units earned. However, transfers of density within a project between differing land use designations can cause land use conflicts, and staff recommends that if a development proposes to transfer density from a higher intensity land use designation to a lower density one, that a General Plan amendment be processed to fully analyze the impacts of such shifting of land use densities from one site to another.

It is clear that Policy 2.2.4.2 separates these bonus provisions from any provisions for affordable housing that are available or will be made available through implementation of Housing Element policies in the future. If an applicant were to propose an affordable housing component in addition to the provisions of Policy 2.2.4.1, additional units would be added to those available through this program.

Planned developments already require a set aside of 30 percent of the site for open space, and the subdivision ordinance requires a certain amount of land to be dedicated for active parks and recreation uses. The question is whether any of this land would qualify for density bonuses. It is clear that only land dedicated in excess of the minimum dedication requirements for parks (Quimby Act) would qualify for the bonus, and logically, since the 30 percent open space is also mandated, that the bonus provisions would also apply on to that portion of open space above that

level. However, the text of the policy does not clearly articulate this position, and it could be argued that the exclusion was specifically limited to parkland dedication requirements.

The land also must provide a "bona fide public benefit." The text of the policy clearly includes open space, wildlife habitat, parks, and ball fields, and also provides for other uses. This may have to be a judgment call on the part of the decision makers, but it seems that it would need to provide a benefit to the general public, not just future residents of the subdivision in order to qualify for the bonus, as articulated in Section C of the policy.

Proposed interpretation:

A planned development application is required to utilize the density bonus provisions.

All areas of a parcel or parcels being developed except for bodies of water may be used in calculating the total available acreage for calculating potential density.

Density is based on the land use designation. Where multiple designations exist for a project, each area would be calculated separately. Bonus units shall be based on the land use designation of the area designated as open space. Transfers of density from one land use designation to another are not permitted without processing a General Plan amendment.

Affordable housing bonuses authorized under the Housing Element are in addition to open space bonuses provided by this policy.

"Public benefit" requires that the open space provide benefits to the general public.

Policy 2.2.5.16 – Level of Planning

The appropriate level of planning for land divisions shall be based on the current land use designation that applies to the project area. The level of planning will at a minimum demonstrate that the project will not preclude the ultimate potential density. Level of planning may be reduced by an accompanying request for General Plan Amendment to reduce the density. An ultimate road circulation plan shall be included that accommodates the maximum density and provides secondary access.

Issues: 1. What must be submitted to demonstrate compliance with this policy?
2. At what density must a concept plan be designed?

The intent of this policy is to prevent lands from being developed at a significantly lower density than is designated in order that housing, infrastructure, and circulation needs are met in the County and to avoid piecemeal development. However, at times, phasing of a project can occur. Staff suggests that a conceptual plan, at a density consistent with the underlying land use designation, which shows the basic minimum of potential lot configuration, roads, infrastructure connections such as water, sewer, and drainage, and access easements, would be necessary to

prevent an interim development pattern from precluding future development. Existing conditions such as steep slopes and other constraints would need to be taken into consideration. It may be, due to market reasons or physical constraints that a site should not, or cannot be subdivided to a density consistent with the land use designation. In such instances, a General Plan amendment to reduce the density is required, to provide an opportunity to consider the impact of changing the density, particularly if it is multifamily residential and it may affect the inventory of potential lands for affordable housing. The policy refers to land divisions; therefore, it would only apply to subdivision maps and parcel maps.

Proposed interpretation:

> When a tentative map or parcel map application triggers this policy, a conceptual development plan with lot sizes consistent with the land use designation shall be provided showing how the proposed land division would accommodate future development. The plan shall include potential lot configuration, road and infrastructure configuration, easement locations, and other information as may be necessary to determine if the land division will accommodate future development at the density intended with the General Plan.

Policy 7.2.2.3 – Mining Buffer

> *The County shall require that new nonmining land uses adjacent to existing mining operations be designed to provide a buffer sufficient to protect the mining operation between the new development and the mining operation(s).*

This policy directs the County to establish buffers on new development adjacent to existing mines to lessen the potential conflicts between mining operations and adjacent residential and other incompatible land uses. In order to accomplish this there are several options that could be considered including establishing a setback similar to agricultural setback provisions, or establishing a design review or site review process on specified parcels to ensure that the incompatibility is limited.

An analysis of the potential impacts will be necessary to determine what an appropriate distance any setback should be, taking into consideration noise, dust, vibrations, and other impacts. These same issues would need to be considered if development standards are created for a compatibility or site plan review process. Ultimately, any standards would need to be incorporated into the ordinance through an amendment process, either as a part of the comprehensive ordinance amendment or as a separate ordinance.

Policy 7.2.2.1 establishes that a 20-acre minimum parcel size on or adjacent to –MR designated land and active mining operations, so this will most likely affect existing parcels that are smaller than 20 acres.

Recommendation:

Staff requests guidance and direction on what option the Commission feels is most appropriate to effectuate this policy. Staff suggests that the establishment of setbacks with sufficient flexibility for unique circumstances or a design review/site plan review process should be included in the zoning ordinance update.

Policy 8.1.2.1 and 8.1.2.2 – Identification and Protection of Range Lands

Policy 8.1.2.1 The County Agricultural Commission shall identify lands suitable for sustained grazing purposes which the Commission believes should be managed as grazing lands. Once such lands have been identified by the Commission, the Board of Supervisors shall determine whether to initiate incentive based programs to retain such lands as productive grazing units.

Policy 8.1.2.2 Some lands within Rural Regions have historically been used for commercial grazing of livestock and are currently capable of sustaining commercial grazing of livestock. If they can be demonstrated to be suitable land for grazing, and if they were not assigned urban or other nonagricultural uses in the Land Use Map for the 1996 General Plan, those lands shall be protected with a minimum of 40 acres unless such lands already have smaller parcels or the Board of Supervisors determines that economic, social, or other considerations justify the creation of smaller parcels for development or other nonagricultural uses. Where 40-acre minimum parcel sizes are maintained, planned developments may be considered which are consistent with the underlying land use designation. Before taking any actions to create parcels of less than 40 acres in areas subject to this policy, the Board of Supervisors and/or Planning Commission shall solicit and consider input from the Agricultural Commission.

Issues: 1. What criteria will be used to identify grazing lands?
2. Should the County first identify these lands or should grazing lands be identified on a case by case basis by the Agricultural Commission?
3. How would a planned development be applied if 40 acres parcels are to be maintained?

Policy 8.1.2.1 directs the County, through the work of the Agricultural Commission, to identify grazing lands but does not identify what criteria to use. These would likely need to be developed by County staff in the Agriculture and Development Services Department, and approved by the Commission, working with the cattle industry and other experts. The key factors are that they are "suitable for sustained grazing" and "should be managed as grazing lands." The goal that this policy is attempting to attain is the conservation of agricultural land and limiting the intrusion of incompatible uses (Goal 8.1). This same list of lands could then be reviewed for application of the development restrictions of Policy 8.1.2.2. If completed prior to the adoption of the zoning ordinance update and County-wide rezone mapping, the grazing lands could be incorporated into the zoning map with an appropriate density. Until such time as that review and identification is completed, land divisions in the Rural Regions of the County, that are 40 acres

or greater, should be reviewed by the Agricultural Commission and recommendations made to the approving authority. The policy provides a waiver of the 40-acre minimum lot size requirement if certain findings can be made by the Board of Supervisors.

The Policy contains confusing language with regard to planned developments. It states that 40-acre parcels are to be maintained but may allow clustering with the overall density consistent with the underlying land use designation. This would imply that smaller parcels could be approved, but that is not possible if 40-acre parcels are maintained. Staff believes it was the intent to permit some clustering, if it can be determined that the development would not have an adverse affect on grazing potential of the site or adjacent parcels, after review by the Agricultural Commission. The text should be revised to clarify this as well as correct the outdated reference to the 1996 General Plan.

Proposed Interpretation:

> Until such time as an analysis of grazing lands is completed pursuant to Policy 8.1.2.1, the Agricultural Commission shall review all land divisions of parcels 40 acres or more in the Rural Regions of the County to determine if the land is suitable for sustained grazing purposes. A 40-acre minimum parcel size shall be maintained on such lands unless the Board of Supervisors makes the specified findings in the policy.

Recommendation:

> Initiate a General Plan amendment to clarify Policy 8.1.2.1 to permit a planned development to create lots smaller than 40 acres provided that it is consistent with the land use designation and protects the grazing land. The amendment would also clean up the reference to the 1996 General Plan.

Policy 8.1.4.1 – Agricultural Commission Review

> *The County Agricultural Commission shall review all discretionary development applications and the location of proposed public facilities involving land zoned for or designated agriculture, or lands adjacent to such lands, and shall make recommendations to the reviewing authority. Before granting approval, a determination shall be made by the approving authority that the proposed use:*
>
> *A. Will not intensify existing conflicts or add new conflicts between adjacent residential areas and agricultural activities; and*
>
> *B. Will not create an island effect wherein agricultural lands located between the project site and other non-agricultural lands will be negatively affected; and*
>
> *C. Will not significantly reduce or destroy the buffering effect of existing large parcel sizes adjacent to agricultural lands.*

Issue: What is the scope of review by the Agricultural Commission?

The policy requires that the Commission review *all discretionary development applications and…public facilities* on lands *zoned for or designated agriculture,* or lands adjacent to such lands. The question is whether lands within the Residential Agricultural Districts chapter of the zoning ordinance (RA-20, RA-40, etc.) are also to be considered in this review. The RA zones are in a separate chapter of the code, Chapter 17.30, as opposed to Chapter 17.36, entitled "Agricultural Districts". While agricultural uses are permitted within the RA zones, the purpose statement for each district reads as follows:

> The purpose of Sections 17.30.010 through 17.30.050 is to provide for the orderly and timely development of residential and agricultural uses consistent with natural conditions and desirable development patterns.

The Agricultural Districts, on the other hand have a purpose statement similar to that below, which is for the PA, Planned Agricultural District:

> The purpose of the PA districts is to provide for the orderly development and protection of lands having sufficient space and conditions compatible to horticulture, husbandry, and other agricultural pursuits and to promote and encourage these pursuits by providing additional opportunities for the sale, packing, processing, and other related activities which tend to increase their economic viability and to provide for the protection from encroachment of unrelated and incompatible land uses tending to have adverse effects on the development or use of these so designated lands.

These zone districts include Agricultural (A), Exclusive Agricultural (AE), Planned Agricultural (PA), Select Agricultural (SA-10), and Agricultural Preserve (AP). It would appear, by use of the term "agricultural districts" in the text of the policy, as well as the more protective provisions of the ordinance language, that the zone districts in Chapter 17.36 are those intended to be given deference to agricultural pursuits, while the Residential Agricultural zones are more general in nature.

Additionally, the policy refers to lands "designated agriculture". This could be lands with the AL, Agricultural Lands land use designation or lands within the designated Agricultural Districts of the plan, or both. Staff believes, based on the importance that was applied to protecting and enhancing the agricultural industry of the County, that it should be applied to both, since there would be no reason to exclude either.

Similar language exists in Policy 8.4.2.1 for lands zoned Timberland Production Zone (TPZ) and "identified timber production lands…designated Natural Resources. At present the only land identified for timberland would be those zoned TPZ, or in some cases AE. Therefore, projects on or adjacent to lands zoned TPZ would also be reviewed by the Agricultural Commission.

Proposed Interpretation:

Policy 8.1.4.1 requires that any discretionary project on, or adjacent to, lands zoned A, AE, AP, PA, SA-10, or TPZ, and any project within or adjacent to the AL, Agricultural Lands land use designation or designated Agricultural Districts shall be reviewed by the Agricultural Commission.

Policy 8.4.1.1 – Timberland Buffers

The subdivision of lands located adjacent to Natural Resource (NR) designation boundaries and lands zoned Timberland Production Zone (TPZ) shall not result in the creation of new parcels containing less than 40 acres. The subdivision of lands adjacent to NR designation and lands zoned TPZ containing 40 acres or less located generally below 3,000 feet in elevation may be considered for the creation of new parcels containing not less than 10 acres, as appropriate. Projects within Rural Center and Community Region planning concept areas are exempt from this minimum parcel size to encourage the concentration of such uses.

Issue: How does this apply to lands "generally below the 3,000 foot elevation?"

During the adoption of the 1996 General Plan, from which this policy derived, the lands above 3000 feet tend to be productive timberland, and the Natural Resources (NR) designation was established for the purpose to identify and protect that resource. However, other lands, particularly the steeper canyon areas at lower elevations were also designated NR, primarily for water resource protection and to limit development on more remote and very steep land. The purpose of the buffer is to protect timberland resources, and NR lands below 3000 feet generally do not have such resources. There are also a few Christmas tree farms on smaller parcels that are zoned TPZ, and it does not seem reasonable to require such a buffer to those smaller parcels. Therefore, staff recommends that the 40-acre buffer only apply to parcels adjacent to land zoned TPZ or designated NR above the 3000 foot elevation. Below that elevation the minimum parcel size is 10 acres.

Proposed Interpretation:

The minimum parcel size on lands adjacent to lands zoned TPZ or designated NR shall be 40 acres for parcels above 3000 feet in elevation and 10 acres below 3000 feet. Parcels in Rural Centers or Community Regions are exempt from this buffer requirement.

Policy 10.2.1.5 – Public Facilities and Services Financing Plan

A public facilities and services financing plan that assures that costs burdens of any civic, public, and community facilities, infrastructure, ongoing services, including operations and maintenance necessitated by a development proposal, as defined below, are adequately financed to assure no net cost burden to existing residents shall be submitted with the following development applications:

A. Specific plans; and

B. All residential, commercial, and industrial projects located within a Community Region or Rural Center which exceed the following thresholds:

1.	*Residential*	*50 units*
2.	*Commercial*	*20 acres or 100,000 square feet*
3.	*Industrial*	*20 acres or 250,000 square feet*

Issue: How should the initial cost for the setup of this analysis be distributed?

Since the lifting of the writ and application of the 2004 General Plan, the County has yet to receive any application that exceeds the threshold triggering this requirement, but numerous projects are in the early development stages, and the future applicants have asked how this is to be provided. An individual analysis would probably cost in the range of $20,000, primarily to set up the model to analyze the potential fiscal impacts. Rather than force that cost on every project that exceeds the above thresholds, the initial setup costs could be spread out over several projects. That cost could be shared by multiple applicants, or the first applicant could cover the costs, and a reimbursement agreement set up where subsequent applicants utilize the model (at a cost of approximately $1,000 to $2,000 per subsequent run), and over time the first applicant would be paid back the initial setup costs. Alternatively, the County could fund the initial costs and a fee applied to projects until that cost was recovered. This latter would be easiest to administer, and we would have direct control over the model. An initial cost to the County of approximately $20,000 would have to be incurred, but that, along with any administrative costs could be recouped by charging applicants an appropriate fee for use of the model.

Recommendation:

> Staff requests that guidance and direction be given by the Planning Commission, after public input, with regard to setting up the fiscal analysis model to comply with this policy.

Summary of Recommendations:

Below is a compilation of all of the recommendations made above. Staff recommends that the Planning Commission concur with the interpretations of the General Plan policies listed below and direct staff to return at a subsequent meeting in late June or July with the appropriate resolutions to initiate General Plan text amendments to clarify the policies as described in this report. These can then be forwarded on to the Board of Supervisors for final action.

Proposed Interpretations:

2.2.1.2 Multifamily Residential Land Use Designation Description

Until such time that the Zoning Ordinance is updated, on lands designated Multifamily Residential (MFR)and zoned Limited Multifamily Residential (R2) or Multifamily Residential (RM) a single family residential unit may be constructed provided that its location and design will not preclude the future use of the site for multifamily residential development. This is based in part on the fact that the existing ordinance permits any use allowed by right in the One-family Residential (R1) Zone District in both of the multifamily residential zone districts. (17.28.100.A and 17.28.140.A)

Policies 2.2.3.1, 2.2.3.2, 2.2.5.4, and 2.2.5.13 – Planned Development Open Space Requirements

Bodies of water cannot be counted as part of the gross acreage for density purposes but can be included as a part of the required 30 percent open space. Golf courses can also be included as part of the open space.

The mandatory planned development requirement applies to residential and non-residential development.

Non-residential development is not required to provide 30 percent open space.

The 30 percent open space requirement can be satisfied with land dedicated to the following uses:

- Undisturbed natural resource areas such as oak woodlands or other native habitat
- Active or passive recreation areas
- Agricultural of forest land
- Visual buffers or screening
- Bikeway or pathway connections to exterior open space or recreation facilities

Said open space areas cannot be enclosed within a fence or otherwise set aside for the exclusive use of one tenant or lot owner.

Policy 2.2.5.16 – Level of Planning

When a tentative map or parcel map application triggers this policy, a conceptual development plan with lot sizes consistent with the land use designation shall be provided showing how the proposed land division would accommodate future development. The plan shall include potential lot configuration, road and infrastructure configuration, easement locations, and other information as may be necessary to determine if the land division will accommodate future development at the density intended with the General Plan.

Policy 8.1.2.1 and 8.1.2.2 – Identification and Protection of Range Lands

Until such time as an analysis of grazing lands is completed pursuant to Policy 8.1.2.1, the Agricultural Commission shall review all land divisions of parcels 40 acres or more in the Rural Regions of the County to determine if the land is suitable for sustained grazing purposes. A 40-acre minimum parcel size shall be maintained on such lands unless the Board of Supervisors makes the specified findings in the policy.

Policy 8.1.4.1 – Agricultural Commission Review

Policy 8.1.4.1 requires that any discretionary project on, or adjacent to, lands zoned A, AE, AP, PA, SA-10, or TPZ, and any project within or adjacent to the AL, Agricultural Lands land use designation or designated Agricultural Districts hall be reviewed by the Agricultural Commission.

Policy 8.4.1.1 – Timberland Buffers

The minimum parcel size on lands adjacent to lands zoned Timberland Preserve Zone (TPZ) or designated Natural Resource shall be 40 acres for parcels above 3,000 feet in elevation and 10 acres below 3000 feet. Parcels in Rural Centers or Community Regions are exempt from this buffer requirement.

Proposed General Plan Text Clarifying Amendments:

Table 2-4 – Land Use Designation and Zoning Consistency Matrix

Initiate a General Plan amendment to amend the table and provide a new policy that would provide guidance toward the use of the table, providing appropriate flexibility to the Planning Commission and Board of Supervisors.

Policies 2.2.3.1, 2.2.3.2, 2.2.5.4, and 2.2.5.13 – Planned Development Open Space Requirements

Initiate a General Plan amendment to modify policies related to mandatory open space, including but not limited to Policies 2.2.3.1, 2.2.3.2, and 2.2.5.13, to provide exceptions for smaller parcels, infill projects, and condominium conversions to the mandatory open space standards.

Additional Recommendations:

Staff further requests direction from the Planning Commission regarding the following policies:

Policy 7.2.2.3 – Mining Buffer

Direct staff to include in the zoning ordinance update the establishment of setbacks, with sufficient flexibility for unique circumstances, to adequately separate mining and incompatible land uses, or create a design review/site plan review process to review potentially incompatible land uses adjacent to existing mining operations.

Policy 10.2.1.5 – Public Facilities and Services Financing Plan

Direct staff to contract with a consultant to prepare a model to analyze fiscal impacts of development that can be applied to individual applications, subject to payment of a fee to reimburse the County's costs.

TABLE 2-4
GENERAL PLAN LAND USE DESIGNATION AND ZONING DISTRICT CONSISTENCY MATRIX

Zoning Districts*	Land Use Designations*											
	MFR	HDR	MDR	LDR	RR	AL	NR	C	R&D	I	OS	TR
RM & R2	●											
MP	●	●										
R1 & R20,000		●										
R1A			●									
R2A			●									
R3A		◊	●									
RE-5	◊	◊	◊	●								
RE-10	◊	◊	◊	●	●							
RA-20			◊	●	●	●						
RA-40+			◊	◊	●	●	●					
NS[1]	●	●	●									
CH[1]								●				●
C								●				
CPO, CP, CG								●				
R&D									●	●		
I										●		
IR[1]					●	●	●			●		
A & SA-10				●		●						
PA				●	●	●						
AE				●	●	●	●					
TPZ				◊	●	●	●					
FR[1]				◊	●	●	●					
MR					●	●	●	●		●		
RF	●	●	●	●	●		●	●			●	●
RT	●							●				
CN				●	●						●	
OS	●	●	●	●	●	●	●	●	●	●	●	
TC	●	●	●	●	●		●	●	●	●	●	●
LEGEND	●[2]◊[3] – Consistent					Inconsistent						

Notes:

[1] Proposed new zone districts: CH - Highway Commercial; NS - Neighborhood Service; IR - Resource Industrial; and FR - Forest Resource

[2] Zone district intensity/density of permitted uses within acceptable range of land use designation

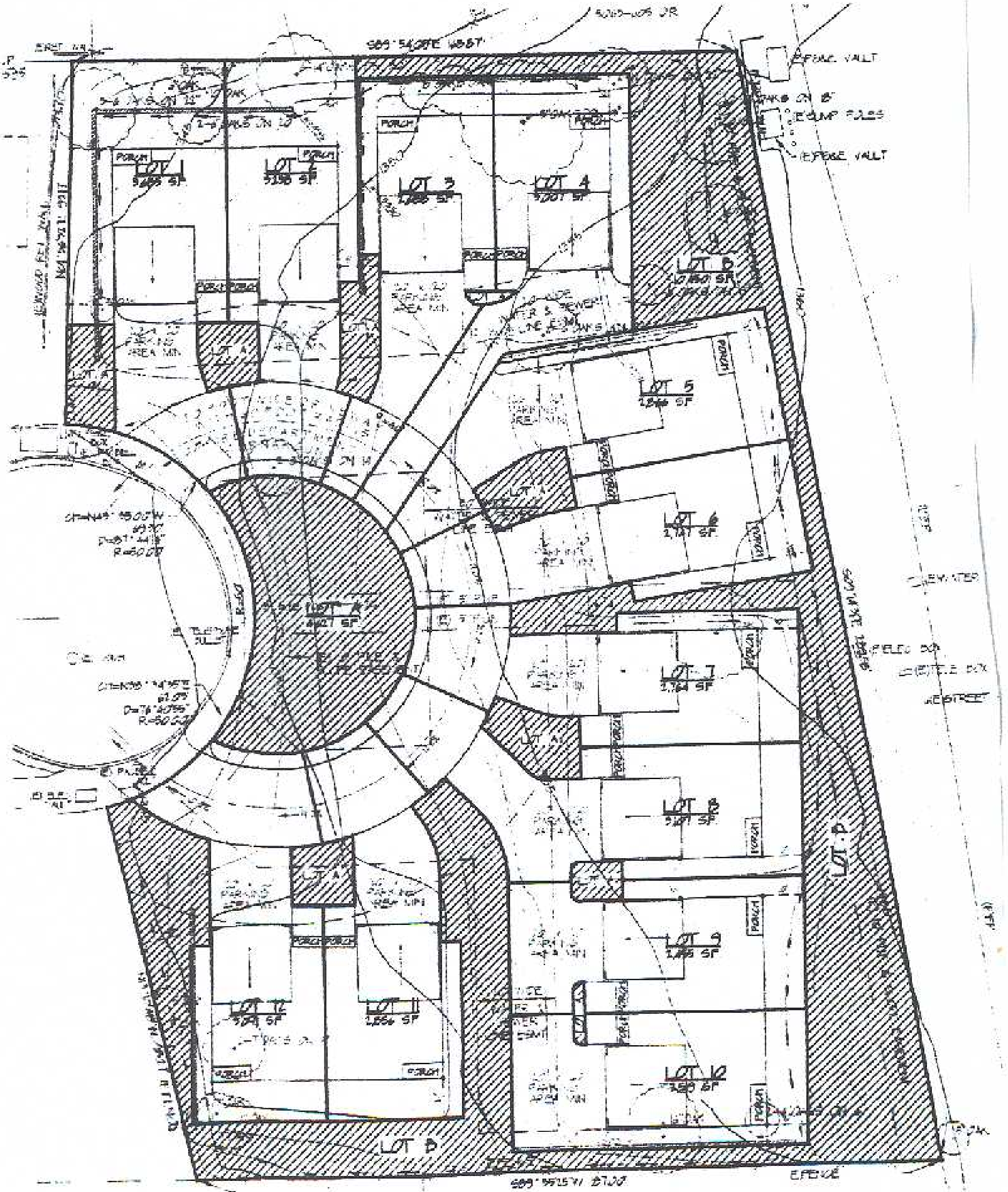
[3] Zone district intensity/density of permitted uses below the acceptable range of land use designation

* See table below for land use designations and zoning districts

Subdivision Common Open Space

Exhibit 1 B

Exhibit 2



LOT 3
LOT 4
LOT 5
LOT 6
LOT 7
LOT 8
LOT 9
LOT 10
LOT B
LOT D
LOT A
PORCH

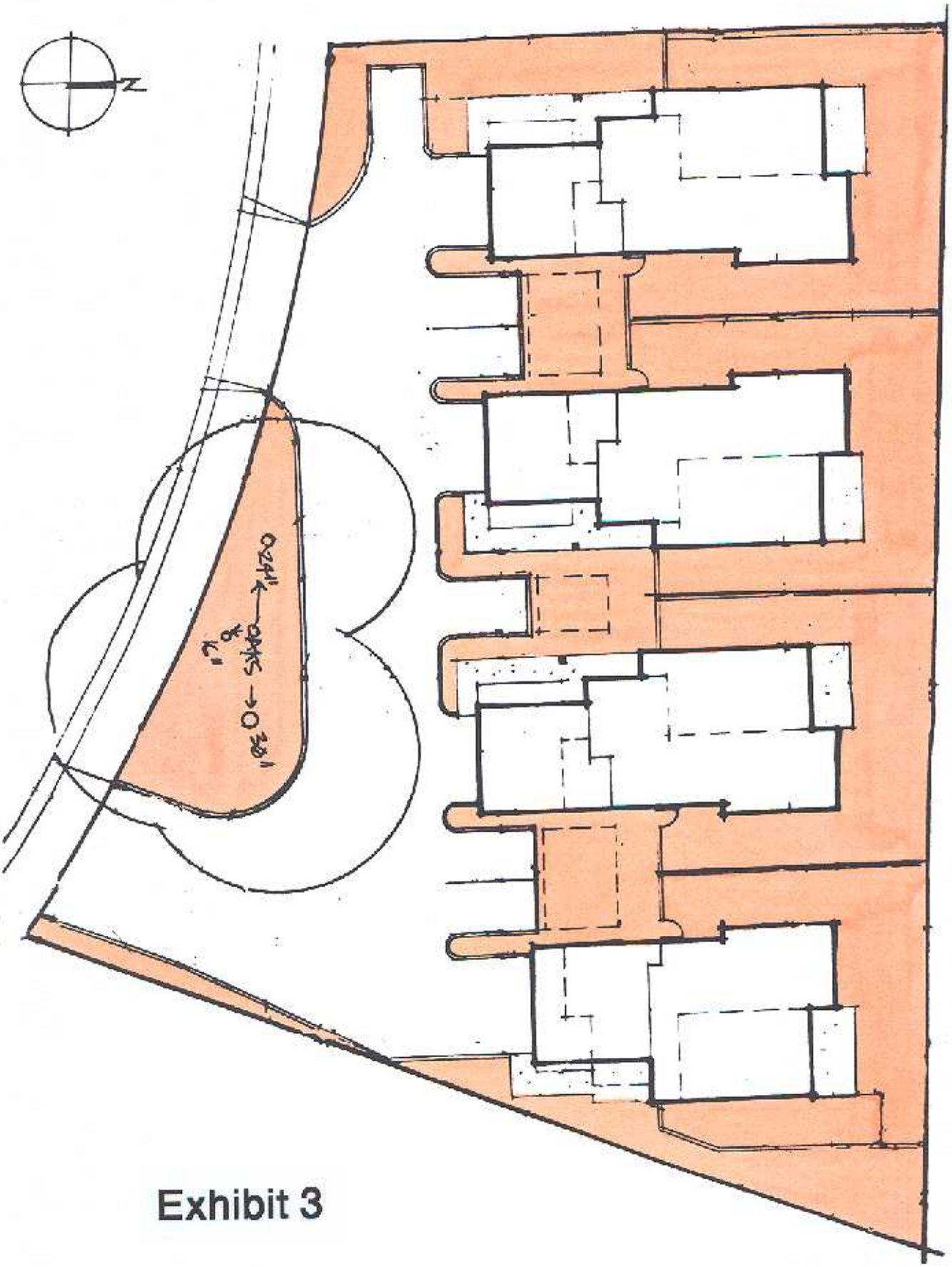


Exhibit 3