

DEVELOPMENT SERVICES DEPARTMENT

COUNTY OF EL DORADO

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TO: El Dorado County Planning Commission Agenda of: March 8, 2012

FROM: Tom Dougherty, Project Planner Item No.: 8

DATE: February 21, 2012

RE: Appeal of the Notice of Decision Regarding the Adoption of the Negative Declaration for Application DR04-0019-R-2/Montano de El Dorado Retail Plaza-Retail/Office Building E; Assessor's Parcel Number: 118-010-12

Background:

The Notice of Decision concerning the proposed adoption of the Negative Declaration for Design Review DR04-0019-R-2 was noticed by Planning Services on February 6, 2012. An appeal was filed on behalf of Charles and Patricia Sutton on February 15, 2012, challenging that decision. In the attached letter dated February 15, 2012, the appellant's agent has stated the primary reason for the appeal is the applicant's believe that *staff has failed to follow the requirements of Chapter 17.74 (Design Review) and of the CEQA Guidelines by failing to process the project in a comprehensive fashion, allowing the retaining wall to be constructed and fill be placed without benefit of this (or any) Design Review approval and failing to prepare a proper environmental document.*

Discussion:

A stormwater retention basin was constructed on APN 118-010-12 under Grading Permit 172831, finalized on October 5, 2006.

Grading Permit application 202670 was submitted on July 22, 2011 and issued on September 9, 2011. The permit allowed the site development for the northeast corner portion of the 16.85-acre parcel including the parking lot; retaining wall; and the replacement of the stormwater retention basin approved under Permit 172831.

Design Review application DR04-0019-R-2 was submitted on October 4, 2011 for a request to revise Design Review DR-0019 to permit the construction of a new 3,944 retail/office building within the partially constructed parking lot area with landscaping, and lighting. The project was deemed complete on October 11, 2012 and was circulated to the affected agencies on October 14, 2011 for comments.

The Planning Services determination the Grading Permit 202670 did not require a Design Review was based on the fact that Zoning Ordinance Section 17.74.020 defines the *purpose of this chapter is to establish a review process which will provide:*

- A. *For the protection, enhancement and use of places, sites, buildings and structures having special character, aesthetic interest and value.*

Grading Permits, including retaining walls, historically have not been subject of the Design Review process because it has been interpreted that Chapter 17.74 applies to buildings and structures only. A parking lot is permitted by right in the Commercial Zone District pursuant to Section 17.32.020.B. Since a parking lot, including associated grading work has been interpreted as not being considered a structure subject to a Design Review application, the grading permit was issued and construction was allowed to commence prior to receipt of any Design Review application for a building.

Recommendation: Planning Services recommends the Planning Commission take the following action:

1. Adopt the Negative Declaration, based on the Initial Study prepared by staff; and
2. Deny the appeal thereby upholding the approval of Design Review DR04-0019-R-2 by the Development Services Director on February 6, 2012 based on the Findings and subject to the Conditions of Approval in Attachment 3.

Attachment 1Appeal Form
Attachment 2Notice of Decision, February 6, 2012
Attachment 3Finding/Conditions of Approval
Attachment 4Staff Report
Attachment 5Sheet C14 of Grading Permit 172831