

**COUNTY OF EL DORADO DEVELOPMENT SERVICES
PLANNING COMMISSION
STAFF REPORT**



Agenda of: November 8, 2012
Item No.: 9.d
Staff: Aaron Mount

SPECIAL USE PERMIT

FILE NUMBER: S12-0002/Outingdale Gates

APPLICANT: Outingdale Improvement Club

REQUEST: Special Use Permit request for three manual gates located on road easements within the Outingdale Subdivision.

LOCATION: At the end of Outingdale Road, approximately 1.5 miles west of the intersection with County Road E16 (Mt. Aukum Road), in the Somerset/Fairplay area, Supervisorial District 2. (Exhibit A)

APNs: Gate 1: 046-154-01 & 046-152-14
Gate 2: 046-132-84 & 046-136-05
Gate 3: 046-132-74 & 046-131-23 (Exhibit B)

GENERAL PLAN: High Density Residential-Platted Lands-Important Biological Corridor (HDR-PL-IBC) (Exhibit C)

ZONING: One-Family Residential (R1) (Exhibit D)

ENVIRONMENTAL DOCUMENT: Categorically exempt pursuant to Section 15303 of the CEQA Guidelines.

SUMMARY RECOMMENDATION:

Staff recommends the Planning Commission take the following actions:

1. Find that the project is Categorically Exempt pursuant to CEQA Guidelines Section 15303; and

2. Approve Special Use Permit S12-0002 subject to the Conditions of Approval in Attachment 1 and based on the Findings in Attachment 2.

BACKGROUND

On July 28, 2010 a Notice to Correct was issued by Code Enforcement, case number 197384, regarding two metal ranch gates and a pole acting as a gate to an easement. The gate at the front of the subdivision, Gate #1, is not part of the Code Enforcement action but is a part of this special use permit. The applicants have stated that the gates have existed previous to adoption of the Zoning Ordinance requiring a Special Use Permit, however legal nonconforming status could not be proved as there are no building permits, tax records, or utility bills associated with the manual gates. Without any documentation it could not be proved that the gates have been in continuous use since they were constructed as required by Chapter 17.20 of the Zoning Ordinance.

STAFF ANALYSIS

Project Description

The applicant is requesting a Special Use Permit for three gates located on road easements within the Outingdale Subdivision. The request is being made to restrict access to the Outingdale Subdivision for security and fire safety.

Gate #1 is located on Vacation Boulevard near the main interior access to the Outingdale Subdivision. The applicants state that the gate was installed in 1932 and is primarily used to prove that Outingdale is a private gated community. The manual gate is closed once a year for a 24 hour period and access is provided by volunteers that man the gate to allow access to residents. As shown on Exhibit E, the gate can be bypassed by turning on to Spring Street.

Gates #2 and #3 are located on Vacation Boulevard and Stream Way at the western end of the Outingdale Subdivision. The applicants state that the two gates are installed around 1976 to prevent trespassers from entering the brush area, parking on private property, and starting fires. The two gates are closed from Memorial Day to Labor Day. As shown on Exhibit E the gates restrict access to several parcels within the Outingdale Subdivision, however they are not developed at this time.

All improvements are within existing road and public utility easements. The actual gates and associated infrastructure are within the road and shoulders.

Not included in the project description is a bollard gate that is part of the Code Enforcement action. The bollard gate is restricting access to parcels south of the Outingdale Subdivision and will continue to be part of the Code Enforcement action until it is removed or civil action resolves the issue.

Site Description

The Outingdale subdivision was created in 1928 as a resort with the adjacent Middle Fork Cosumnes River being its main attraction. The Outingdale Subdivision is at an average elevation of approximately 1,600 feet above mean sea level and is located in the Somerset/Fairplay area. The

subdivision is accessed by Outingdale Road which connects to County Road E16. The County maintained road database shows that the location of the gates are on privately maintained roads.

Adjacent Land Uses

	Zoning	General Plan	Land Use/Improvements
Site	R1	HDR-PL-IBC	Single family residential, developed residential
North	RE-5	OS, LDR	Single family residential, developed residential
South	RE-10	RR	Single family residential, developed and undeveloped residential
East	RE-5	MDR	Single family residential, developed residential
West	RE-10/RE-5	LDR/RR	Single family residential, developed and undeveloped residential

Land Use Compatibility: All the parcels within the Outingdale Subdivision are within the R1 zone district and the HDR land use designation with the Platted Lands overlay. The purpose of the Platted Lands (-PL) overlay designation is to identify isolated areas consisting of contiguous existing smaller parcels in the Rural Regions where the existing density level of the parcels would be an inappropriate land use designation for the area based on capability constraints and/or based on the existence of important natural resources..

Project Issues: Discussion items for this project include Outingdale Improvement Club, property owner authorization, public access, emergency access, and turnarounds.

Outingdale Improvement Club and Property Owner Authorization: The Outingdale Improvement Club is a nonprofit association for the betterment of the subdivision but it is not a governing home owners association and membership is voluntary. The applicant, The Outingdale Improvement Club, has stated that they are representing all of the homeowners of the subdivision but as an organization with voluntary membership it can not be confirmed. As shown as Exhibits O and P, letters opposed to the gates have been received. All lots within the subdivision have been notified of the Planning Commission hearing as is standard with all Special Use Permit applications for gates.

All applications to be processed by Planning Services have the following requirement: “Letter of authorization from all property owners authorizing agent to act as applicant, when applicable”. Authorization from the property owners of the actual locations of the gates has been submitted. As discussed above gates effect more than the physical location of the gates themselves and authorization of all effected parcels has not been received.

Public Access: No public facilities exist within the area affected by the gates. The Outingdale Subdivision roads are essentially dead-end roads and provide residential access only and are not identified on the General Plan Circulation Map (Figure TC-1).

Emergency Access: The Pioneer Fire Protection District and CalFire have stated that since the gates exist that they would not provide comments on the project. The applicants have agreed to put Knox locks on the gates so that could be accessed by emergency responders. General Plan **Policies 5.7.2.1, 5.7.3.1, 5.7.4.1, 6.2.3.1, and 6.2.3.2** all state as a requirement of new development, that the applicant must demonstrate that adequate access exists for emergency services including fire, sheriff, and emergency medical services. The recommended condition of approval for Knox locks would ensure the ingress of emergency vehicles through the proposed gates.

It is to be noted that the conditions specified for access may not apply to all emergency response agencies. Mutual response by state or federal agencies or private EMS companies may not be able to obtain access to the gates.

Turnaround: Proposed Condition Number 7 requires turnarounds to be constructed to the specifications as required by the Department of Transportation. Adequate area should exist within the road easement to construct turn-a-rounds. A building/general grading permit would be required which will ensure that all grading would comply with the grading ordinance. There is a low potential for impacts that would be associated with construction of the turn-around.

Zoning Ordinance: Although gates are not specifically mentioned, Chapter 17.14 regulates fencing and encroachments into required yards. Section 17.14.155.E specifically states that “Fences shall not be permitted within road easement or County road right-of-way.” This has been interpreted by Planning Commission to require a special use permit for gates within road easements.

Special Use Permit: In order to approve the project, the approving authority must find that the project would be consistent with the General Plan and would not be detrimental to the public health, safety and welfare nor injurious to the neighborhood. In order to make the finding that this project is not detrimental, based on comments received from public agencies and as discussed in the staff report, staff finds that the project would not be detrimental to the public health, safety and welfare and would not be injurious to the neighborhood. Findings for Approval have been provided in Attachment 2.

ENVIRONMENTAL REVIEW

This project has been found to be Categorical Exempt from the requirements of CEQA pursuant to Section 15303 of the CEQA Guidelines stating:

“Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures... include, but are not limited to: (e) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.”

Although not specifically listed, gates are similar to the items listed in Section 15303 of the CEQA Guidelines, and are considered “small structures”.

A \$50.⁰⁰ processing fee is required by the County Recorder to file the Notice of Exemption.

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1	Conditions of Approval
Attachment 2	Findings
Exhibit A	Location Map
Exhibits B1-4	Assessor's Maps
Exhibit C	General Plan Land Use Map
Exhibit D	Zoning Map
Exhibit E	Gate Location Map
Exhibits F1-3	Photos of Gate #1
Exhibit G	Elevation of Gate #1
Exhibit H	Applicant-submitted Site Plan Gate #1
Exhibits I1-2	Photos of Gate #2
Exhibit J	Elevation of Gate #2
Exhibits K1-2	Photos of Gate #3
Exhibit L	Elevation of Gate #3
Exhibit M	Applicant-submitted Site Plan for Gates #2 and #3
Exhibits N1-3	Outingdale Subdivision Map A-11
Exhibit O	W. Ziegler Letter; April 24, 2012
Exhibit P	A. Ramos Letter; April 5, 2012
Exhibit Q	County DOT Maintained Roads

ATTACHMENT 1

CONDITIONS OF APPROVAL

**Special Use Permit S12-0002/Outingdale Gates
Planning Commission/November 8, 2012**

El Dorado County Planning Services

1. This Special Use Permit approval is based upon and limited to compliance with the project description and following hearing Exhibits:

Exhibit E	Gate Location Map
Exhibits F1-3.....	Photos of Gate #1
Exhibit G.....	Elevation of Gate #1
Exhibit H.....	Applicant-submitted Site Plan Gate #1
Exhibits I1-2	Photos of Gate #2
Exhibit J	Elevation of Gate #2
Exhibits K1-2.....	Photos of Gate #3
Exhibit L	Elevation of Gate #3
Exhibit M	Applicant-submitted Site Plan for Gates #2 and #3

Any deviations from the project description, exhibits, or Conditions of Approval set forth below shall be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

The project description is as follows:

A Special Use Permit to allow three manual gates located on the Outingdale Subdivision's access roads located at the following locations:

Gate 1: 046-154-01 & 046-152-14

Gate 2: 046-132-84 & 046-136-05

Gate 3: 046-132-74 & 046-131-23

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto. All plans must be submitted for review and approval and shall be implemented as approved by the County.

2. All three gates shall be equipped with Knox security locks in accordance with Pioneer Fire District's and CalFire's requirements.
3. The three gates shall not restrict access to any persons that have legal access to the roads that they are located on.
4. Prior to issuance of a building permit or commencement of any use authorized by this permit the applicant shall provide a written description, together with appropriate documentation, showing conformance of the project with each condition imposed as part of the project approval. The applicant shall also schedule an inspection by Planning Services prior to initiation of use or issuance of a building permit for verification of compliance with applicable Conditions of Approval.
5. Planning Services shall verify that all Development Services and Noticing fees have been paid prior to issuance of any permits or initiation of use.
6. In the event of any legal action instituted by a third party challenging the validity of any provision of this approval, the developer and landowner agree to be responsible for the costs of defending such suit and shall hold County harmless from any legal fees or costs County may incur as a result of such action.

The applicant shall defend, indemnify, and hold harmless El Dorado County and its agents, officers, and employees from any claim, action, or proceeding against El Dorado County or its agents, officers, or employees to attack, set aside, void, or annul an approval by El Dorado County.

County shall notify the applicant of any claim, action, or proceeding and County will cooperate fully in the defense.

El Dorado County Department of Transportation

7. The gates shall be designed and constructed with a turnaround acceptable to the Department of Transportation and the Fire District. The improvements shall be completed to the satisfaction of the Department of Transportation or the applicant shall obtain an approved improvement agreement with security prior to the initiation of the use.
8. The proposed project must form an entity for the maintenance of the gates. If there is an existing entity, the property owner shall modify the document if the current document does not sufficiently address maintenance of the gates. DOT shall review the document forming the entity to ensure the provisions are adequate prior to the initiation of the use.

ATTACHMENT 2

FINDINGS

Special Use Permit S12-0002/Outingdale Gates Planning Commission/November 8, 2012

1.0 CEQA FINDINGS

- 1.1 This project has been found to be Categorical Exempt from the requirements of CEQA pursuant to Section 15303 of the CEQA Guidelines stating:

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures... include, but are not limited to: (e) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.

Although not specifically listed, gates are similar to the items listed in Section 15303 of the CEQA Guidelines and the proposed gates are considered small structures.

- 1.2 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Development Services Department - Planning Services at 2850 Fairlane Court, Placerville, CA, 95667.

2.0 GENERAL PLAN FINDINGS

- 2.1 As proposed, the project is consistent with the High Density Residential (HDR) land use designation as defined within General Plan Policy 2.2.1.2 because the land use designation permits gates with a special use permit.
- 2.2 The proposal is consistent with General Plan Policies 5.7.2.1, 5.7.3.1, 5.7.4.1, 6.2.3.1, and 6.2.3.2 all relating to emergency access. The project is consistent with the General Plan because the project is compatible with the land use and would provide adequate emergency access as conditioned.

3.0 ZONING FINDINGS

- 3.1 The proposed use is permitted by Special Use Permit in the Estate Residential (R1) zone district, pursuant to Sections 17.14.155.E provided that the administrative findings outlined below can be made by the Planning Commission.
- 3.2 As proposed and conditioned, the project meets all applicable development standards contained within the El Dorado County Zoning Ordinance.

4.0 ADMINISTRATIVE FINDINGS FOR A SPECIAL USE PERMIT

- 4.1 **The issuance of the permit is consistent with the general plan.** The gate proposal as conditioned is consistent with General Plan Policies 5.7.2.1, 5.7.3.1, 5.7.4.1, 6.2.3.1, and 6.2.3.2 in that the gate will allow emergency vehicle access and private vehicles can evacuate the area.
- 4.2 **The proposed use would not be detrimental to the public health, safety and welfare, or injurious to the neighborhood.** As conditioned, the gates will not have a significant affect on response times and would not be detrimental to the public health, safety and welfare, or injurious to the neighborhood.
- 4.3 **The proposed use is specifically permitted by special use permit pursuant to this Title.** Although gates are not specifically mentioned, Chapter 17.14 regulates fencing and encroachments into required yards. Section 17.14.155.E specifically states that “Fences shall not be permitted within road easement or County road right-of-way.” This has been interpreted by Planning Commission to require a special use permit for gates within road easements.