

**EL DORADO COUNTY DEVELOPMENT SERVICES
STAFF REPORT**



Agenda of: May 3, 2006
Item No.: 5.b.
Staff: Aaron Mount

PARCEL MAP

FILE NUMBER: P02-0005

APPLICANT: Manuel and Deborah Vieira

AGENT: Carlton Engineering, Inc.

REQUEST: A tentative parcel map creating two (2) parcels ranging in size from 8.09 to 10 acres on an 18.09-acre site. (Exhibit B).

Design waiver(s) have been requested for the following:

a. Reduction of road improvements to 18 feet.

LOCATION: On the north side of State Highway 193, approximately 0.2 miles south of the intersection with Black Oak Mine Road in the Garden Valley area. (Exhibit A)

APN: 060-522-18

ACREAGE: 18.09 acres

GENERAL PLAN: Rural Residential-Agricultural District (RR-A) (Exhibit B)

ZONING: Estate Residential Ten-acre (Exhibit C)

ENVIRONMENTAL DOCUMENT: Mitigated Negative Declaration

SUMMARY RECOMMENDATION: Denial

BACKGROUND: On January 23, 1996, El Dorado County adopted a comprehensive General Plan. On February 5, 1999, the Superior Court, County of Sacramento, in the matter of *El Dorado County*

Taxpayers for Quality Growth, et al. v. El Dorado County Board of Supervisors and El Dorado County, ruled that, in certain respects, the County failed to comply with the California Environmental Quality Act (CEQA) in the adoption of its 1996 General Plan. Consequently, certification of the General Plan CEQA Environmental Impact Report (EIR) and adoption of the General Plan were set aside and the County was directed to temporarily restrict new development pursuant to a writ of mandate. To address the Court’s findings, the County prepared a new General Plan, which was adopted on July 19, 2004. However, subsequent to plan adoption, a referendum measure that would also affect implementation of the plan was filed with the County. That referendum, which appeared on the March 8, 2005, ballot, was approved by the voters and the County began processing applications on October 3, 2005.

This parcel map application was submitted August 13, 2002 and could not be processed until after the referendum vote was approved.

STAFF ANALYSIS

Project Description: P 02-0005 is a request for a tentative parcel map creating two (2) parcels ranging in size from 8.09 to 10 acres on an 18.09-acre site.

Site Description: The subject parcel is at an average elevation of 2,200 feet above mean sea level. Vegetation is dominated by annual grasses, the ponderosa pine alliance, and the willow alliance. The topography is varied with low lying areas containing two intermittent streams and three ponds and the higher areas contain the suitable building sites. The subject parcel’s improvements consist of a single-family residence, a temporary mobile home, and a barn on the north portion of the parcel, and a barn currently being converted to a single-family residence on the southern portion of the parcel. Access is gained by a driveway on the southern portion and a road on the northern portion. Both access points encroach onto State Highway 193.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	RE-10	RR-A	Single-family residence
North	RE-10	RR-A	Single-family residence
South	RE-10	RR-A	Single-family residence
East	RE-5/RE-10	RR-A/AL	Single-family residence, vineyard
West	RE-5	RR-A	Single-family residence, church

Discussion: The proposed Parcel Map is consistent with adjacent Zoning and Land Use Designations.

General Plan: The General Plan designates the subject site as Rural Residential with an Agricultural District Overlay (RR-A), of which the land use designation permits a minimum parcel size of 10 acres. The proposed 10-acre parcel therefore conforms to the General Plan land use

designation. The 8.09 acre parcel meets all standards of Section 17.14.120.C, parcel size exception, of the Zoning Ordinance. The County has historically found parcels of a size meeting all standards of Section 17.14.120 to be consistent with the associated General Plan Land Use Designation; therefore the proposed 8.09 acre parcel is consistent with the Rural Residential Land Use Designation. The following is discussion of the Agricultural District Overlay and its associated General Plan Policies:

Policy 8.1.4.1: 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.

Discussion: P02-0005 was heard at the January 11, 2006 meeting of the El Dorado County Agricultural Commission. The recommendation made by the Agricultural Commission is discussed below.

Policy 2.2.2.2: The purpose of the Agricultural District (-A) overlay designation is to identify the general areas which contain the majority of the County's federally designated prime, State designated unique or important, or County designated locally important soils (collectively referred to as "choice" agricultural soils) and which the Board of Supervisors has determined should be preserved primarily for agricultural uses. This designation does not imply any restrictions on agricultural uses in areas not designated specifically as an Agricultural District but only serves to identify agriculture as the principal activity and to discourage incompatible uses such as higher density residential use.

A. Agricultural Districts shall be used to conserve and protect important agricultural crop lands and associated activities, maintain viable agricultural-based communities, and encourage the expansion of agricultural activities and production.

B. The minimum residential parcel size for lands containing choice agricultural soils within an Agricultural (-A) District shall be twenty (20) acres or the minimum lot size established by the underlying land use designation, whichever is greater. Residential parcels within Agricultural Districts where 70 percent or more of the parcel area is identified by the Agricultural Commission as land unsuitable for agriculture, as defined in "The Procedure for Evaluating the Suitability of Land for Agriculture," may be considered for a minimum parcel size of ten (10) acres.

Discussion: At the January 11, 2006 meeting of the El Dorado County Agricultural Commission it was found that P 02-0005 was not consistent with the above *General Plan Policy (Exhibit K)*. The subject parcel is within the Garden Valley Agricultural District and is currently not being used for commercial agricultural production. The general area is residential in nature, although there is a small vineyard directly to the east and uphill from the subject parcel. As discussed above, proposed Parcel A is 8.09 acres which meets all Zoning Ordinances and historically is consistent with the Rural Residential Land Use designation. Although the parcel contains 70 percent non-choice agricultural soils (Exhibit I), it was discussed by the Agricultural Commission that this does not constitute lands unsuitable for agriculture. Due to the 8.09 acre parcel being less than 10 acres, inconsistency was found with *General Plan Policy 2.2.2.2* and the Agricultural Commission recommended denial of P 02-0005.

Conclusion: As discussed above, staff finds that the project, as proposed/conditioned, does not conform to the General Plan.

Zoning: The subject site is zoned Estate Residential Ten-acre which permits a minimum parcel size of 10 acres. Therefore, proposed Parcel B containing 10-acres conforms to existing zoning. Parcel A, with a parcel size of 8.09 acres, is allowed pursuant to *Section 17.14.120 of the Zoning Ordinance* which states:

17.14.120 Parcel size exception. In the following zone districts: RE-5, RE-10...an existing parcel may be subdivided in such a way that one new parcel of less size than is required in the prevailing zone regulations is created within each subdivision provided the following conditions exist:

- C. *The parcel is shown on the 1979 county tax role as a separate parcel and a survey shows it to be a maximum of ten percent less than the acreage required to make even divisions into the minimum parcel size to which it is zoned; and both of the following:*
1. *The smallest parcel proposed to be created is no less than seventy-five percent of the minimum size required by the applicable zone; and*
 2. *All other parcels proposed to be created are no less than the minimum required by the applicable zone or no more than one-tenth of an acre larger than the minimum.*

Discussion: The parcel was created by a parcel map in 1973 and shows as a separate parcel on the 1979 tax role. The subject parcel is 18.09 acres which is 9.55 percent less than the acreage required to make an even division. The smallest parcel proposed is 8.09 acres, which is 80.9 percent of the minimum size required by the applicable zoning. The additional proposed parcel, which is 10 acres, is exactly the required minimum acreage as required by the Estate Residential Ten-acre (RE-10) Zoning District.

Conclusion: As discussed above, staff finds that the project, as proposed/conditioned, meets all applicable Zoning Ordinances.

Design Waiver(s) Discussion: A design waiver has been requested for a reduction of road improvements to 18 feet. Parcel B has direct access by an existing driveway, with a paved encroachment, on State Highway 193. Parcel A is accessed by a road which encroaches onto State Highway 193 and serves 3 parcels. Due to a small portion of 21-39 percent slope, the applicant is

requesting a design waiver reducing the required 24-foot wide improvement to 18 feet pursuant to the California Fire Safe Standards.

Other Issues:

Water: Water will be supplied by Georgetown Divide Public Utility District.

Sewage Disposal: Proposed Parcel A contains an existing house with an approved septic system. A soil evaluation for proposed Parcel B was performed on August 05, 2002 and approved by El Dorado County Environmental Management Department on December 20, 2005.

Asbestos: The subject parcel is within an Asbestos Review Area as specified by the El Dorado County Air Quality Management District (AQMD). Compliance with the AQMD Rule 223-2 Fugitive Dust-Asbestos Hazard Mitigation will be required with any grading or building permits.

Noise: The subject parcel is adjacent to State Highway 193. Referring to *Exhibit 5.10-9 of the 2004 General Plan Draft Environmental Impact Report*, it is evident that the existing building sites are outside of the 60 Ldn/CNEL Traffic Noise Contours. No conditions or mitigations are needed to reduce the possible impacts this project may have being adjacent to State Highway 193.

Agency and Public Comments: The following agencies provided comments on this application and their concerns are addressed within the conditions of approval:

El Dorado County Department of Transportation
County of El Dorado Office of County Surveyor

These agencies had no specific concerns regarding the proposed parcel map:

El Dorado County Environmental Management Department, Air Quality Management District
El Dorado County Environmental Management Department, Environmental Health
Pacific Gas and Electric
El Dorado County Resource Conservation District

Copies of their written comments are available at the Planning Services office.

At the time of the preparation of this report, staff had not received any comments from the public. New issues may arise as a result of the public notice of the hearing which will be discussed at that time.

ENVIRONMENTAL REVIEW

This project has been found to be Statutorily Exempt from the requirements of CEQA pursuant to *Section 15270 of the CEQA Guidelines* stating that CEQA does not apply to projects which a public agency rejects or disapproves.

Should the project be approved, staff has prepared an Initial Study (Environmental Checklist with Discussion attached) to determine if the project may have a significant effect on the environment. Based on the Initial Study, conditions have been added to the project to avoid or mitigate to a point

of insignificance the potentially significant effects of the project. Staff has determined that there is no substantial evidence that the proposed project as conditioned will have a significant effect on the environment, and a negative declaration has been prepared.

NOTE: This project is located within or adjacent to an area which has wildlife resources (riparian lands, wetlands, watercourse, native plant life, rare plants, threatened and endangered plants or animals, etc.), and was referred to the California Department of Fish and Game. In accordance with State Legislation (*California Fish and Game Code Section 711.4*), the project is subject to a fee of \$1,285.⁰⁰ after approval, but prior to the County filing the Notice of Determination on the project. This fee, less \$35.⁰⁰ processing fee, is forwarded to the State Department of Fish and Game and is used to help defray the cost of managing and protecting the State's fish and wildlife resources.

RECOMMENDATION

1. Deny the project as the required findings cannot be made based on the analysis in the staff report and as noted in Attachment 1.

(OR SHOULD THE FINDINGS BE MADE BY THE ZONING ADMINISTRATOR)

1. Approve Parcel Map P 02-0005 as the required findings can be made as noted in Attachment 2 based on the analysis in the staff report and the modification of the project to include conditions itemized in Attachment 3; and.
2. Adopt the **Mitigated** Negative Declaration based on the Initial Study prepared by staff; and
3. Approve the following design waivers since appropriate findings have been made as noted in Attachment 2:
 - a. Reduction of road improvements to 18 feet.

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1	Findings for Denial
Attachment 2	Findings for Approval
Attachment 3	Conditions of Approval
Exhibit A	Vicinity Map
Exhibit B	Tentative Parcel Map
Exhibit C	Slope Map
Exhibit D1-2	General Plan Land Use Map
Exhibit E	Zoning Map
Exhibit F1-2	Assessor's Parcel Pages
Exhibit G	Parcel Map 3-47
Exhibit H	Environmental Checklist and Discussion of Impacts
Exhibit I	Soils Map
Exhibit J	Farmland in El Dorado County Map
Exhibit K	Agricultural Commission Memo Dated 1/23/06

ATTACHMENT 1 FINDINGS FOR DENIAL

FILE NUMBER P02-0005

Based on the review and analysis of this project by staff and affected agencies, and supported by discussion in the staff report and evidence in the record, the following findings can not be made:

FINDINGS FOR DENIAL

1. The proposed parcel sizes are not consistent with the General Plan Land Use map and/or policies.

As recommended by the Agricultural Commission, proposed Parcel A with a size of 8.09 acres is not consistent with *Policy 2.2.2.2 of the 2004 General Plan*.

ATTACHMENT 2 FINDINGS FOR APPROVAL

FILE NUMBER P02-0005

FINDINGS FOR APPROVAL

Tentative Map

1. The proposed tentative map, including design and improvements, is consistent with the General Plan policies and Land Use map.
2. The proposed tentative map does conform with the applicable standards and requirements of the County's zoning regulations and the Minor Land Division Ordinance.

The proposed tentative map is consistent with *Section 17.70.110 of the Zoning Ordinance*, Estate Residential Ten-acre (RE-10) Development standards, and *Section 17.14.120*, Parcel size exception, of the *Zoning Ordinance*.

3. The site is physically suitable for the proposed type and density of development.

The tentative map was approved by environmental for septic system, water is provided by a public utility district, and access is provided by a paved State Highway and a road serving three parcels.

4. The proposed tentative map is not likely to cause substantial environmental damage.

The proposed project, as conditioned, will not have a significant effect on the environment and a **mitigated** negative declaration has been filed. A de minimis finding on the project's effect on fish and wildlife resources cannot be found and the project is therefore subject to the payment of State Fish and Game fees pursuant State Legislation (*California Fish and Game Code Section 711.4*).

Design Waivers

1. There are special conditions for circumstances peculiar to the property proposed to be divided which would justify the adjustment or waiver. The current road crosses a sloped area of 21-39 percent and an intermittent stream.
2. Strict application of County design and improvement requirements would cause extraordinary and unnecessary hardship in developing the property because the increased improvements will require more extensive grading and drainage work with increased impacts to an area that is sensitive to soil disturbance. The larger cut and fill slopes may result in additional erosion and sediment discharge from the site and additional tree canopy loss.

3. The adjustment or waiver(s) would not be injurious to adjacent properties or detrimental to the health, safety, convenience and welfare of the public. The design waiver request reduces the road improvements to *California Firesafe Standards* with final approval from the Garden Valley Fire Protection District.
4. This waiver(s) would not have the effect of nullifying the objectives of *Article II of Chapter 16 of the County Code* or any other ordinance applicable to the division.

ATTACHMENT 3 CONDITIONS OF APPROVAL

FILE NUMBER P02-0005

MITIGATION MEASURES

The following mitigation measures are required as a means to reduce potential significant environmental effects to a level of insignificance:

1. In the event a heritage resource or other item of historical or archaeological interest is discovered during grading and construction activities, the project proponent shall ensure that all such activities cease within 50 feet of the discovery until an archaeologist can examine the find in place and determine its significance. If the find is determined to be significant and authenticated, the archaeologist shall determine the proper method(s) for handling the resource or item. Grading and construction activities may resume after the appropriate measures are taken or the site is determined not to be of significance. Planning Services shall review the grading plans prior to the issuance of a grading permit.
2. In the event of the discovery of human remains, all work is to stop and the County coroner shall be immediately notified pursuant to *Section 7050.5* of the *Health and Safety Code* and *Section 5097.98* of the *Public Resources Code*. If the remains are determined to be Native American, the Coroner must contact the Native American Heritage Commission within 24 hours. The treatment and disposition of human remains shall be completed consistent with guidelines of the Native American Heritage Commission. Planning Services shall review the grading plans prior to the issuance of a grading permit.

STANDARD CONDITIONS OF APPROVAL

Department of Transportation

1. Applicant shall submit an improvement plan prepared by a professional civil engineer to the Department of Transportation for review and approval for, and construct onsite roads for an 18-foot roadway, with 2-foot shoulders, and 50-foot right of way per Standard Plan 101C, from Parcel A on the existing 50-foot wide non-exclusive road and public utilities easement across Assessor's Parcel Number 060-522-21, to State Highway 193, prior to recording the parcel map.
2. The existing 50 foot Non-Exclusive Road and Public Utilities Easement on Parcel A, must be irrevocably dedicated in fee on the parcel map, to be rejected by the County.
3. Final approval of road widths shall be made by the Garden Valley Fire Protection District.

4. All grading and erosion control, including driveway construction, shall be in compliance with the requirements of *Chapter 15.14* of the *El Dorado County Code, Grading, Erosion and Sediment Control Ordinance*. A letter of compliance from the local enforcement agency shall be submitted to the Surveyor's Office at the time of filing the parcel map.
5. Prior to issuance of a grading permit, an erosion, slope stabilization and revegetation plan shall be prepared for review and approval by the El Dorado County Resource Conservation District and the County Department of Transportation. Letters stating said approval by said agencies shall be submitted to the Surveyor's Office prior to filing the parcel map.

Planning Services

6. Domestic water shall be supplied by the Georgetown Divide Public Utility District with a minimum six-inch water line to the property being divided, and a water meter award letter or similar assurance from the water purveyor, guaranteeing water service upon demand to each of the parcels created, shall be submitted to the County Surveyor at the time of filing the parcel map.
7. The subdivision is subject to parkland dedication in-lieu fees. The fees shall be \$150.⁰⁰ and shall be paid to the Georgetown Divide Recreation District.

Environmental Management

8. Show all drainages on the parcel map that may have an effect on the location of septic systems.

County Surveyor

9. All survey monuments must be set prior to filing the Parcel Map.
10. The road serving the development along the western boundary, designated as 50 foot Non-exclusive Road and Public Utilities Easement per PM 3-47, shall be named by filing a completed Road Name Petition with the County Surveyors Office prior to filing the Parcel Map. The structures currently accessing the road must be revised to fit the new road name.
11. Prior to filing the Parcel Map, a letter to the County Surveyor will be required from all agencies that have conditions placed on the map.
12. Prior to the filing of a parcel map, if the subject property is subject to liens for assessment or bonds, pursuant to the provisions of *Government Code Section 66493*, the owner or subdivider shall do one of the following: (a) Pay the assessment or bond in full; (b) File security with the Clerk of the Board of Supervisors; or (c) File with the Clerk of the Board of Supervisors the necessary certificate indicating that provisions have been made for the segregation of bond assessment responsibility, pursuant to *Government Code Section 66493(d)*.