

**EL DORADO COUNTY DEVELOPMENT SERVICES
STAFF REPORT**



Agenda of: February 6, 2008

Item No.: 4.c.

Staff: Aaron Mount

PARCEL MAP

FILE NUMBER: P98-0012/ Transvest Inc.

APPLICANT: John Stelzmler (Transvest Inc./Garretson Mortgage)

ENGINEER: Gene E. Thorne & Associates Inc.

REQUEST: A tentative parcel map creating 4 parcels ranging in size from 9.65 to 10 acres on a 39.65-acre site. (Exhibit B).

Design waivers have been requested for the following:

- a. Allow a 3,300 foot dead-end road, longer than the maximum of 500 feet in length.
- b. Allow on-site roadway width of 20 feet in-lieu of the standard 24-foot requirement.

LOCATION: On the west side of Miners Trail, approximately 1/3 of a mile from the intersection with Sweeney Road in the Somerset area, Supervisorial District II. (Exhibit A)

APN: 093-021-71

ACREAGE: 39.65 acres

GENERAL PLAN: Rural Residential-Platted lands (RR-PL) (Exhibit B)

ZONING: Estate Residential Ten-acre Zone District (RE-10) (Exhibit C)

ENVIRONMENTAL DOCUMENT: Statutorily Exempt pursuant to Section 15270(b) of the CEQA Guidelines

RECOMMENDATION

1. Certify that the project is Statutorily Exempt from CEQA pursuant to Section 15270(b) of the CEQA Guidelines; and
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.
2. Deny the following design waivers since appropriate findings required in Section 16.40.010 cannot be found to exist:
 - a. Allow a 3,300 foot dead end road, longer than the maximum of 500 feet in length
 - b. Allow roadway width of 20 feet in lieu of the standard 24 foot requirement

STAFF ANALYSIS

Staff has reviewed the project for compliance with the County's regulations and requirements. An analysis of the permit request and issues for Zoning Administrator consideration are provided in the following sections.

BACKGROUND

The project site was included in a "General Plan Hot Bucket" item request that was approved by the Planning Commission on August 3, 1995, on a 4-1 vote to allow a land use designation of Rural Residential. Planning Staff recommended to the Board of Supervisors thereafter that the designation should be Natural Resource since the properties involved 80 acres and did not satisfy the intent of the Platted Lands overlay designation that was intended for isolated areas consisting of contiguous existing smaller parcels in the Rural Region where such smaller parcels are considered inappropriate.

This parcel map application was submitted October 19, 1998 and was scheduled for Zoning Administrator hearing on March 3, 1999, with a recommendation of denial, but was continued off calendar due to the General Plan lawsuit and could not be processed until after the referendum vote was approved. 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.

The application was again deemed complete on February 22, 2006 and a TAC meeting held on April 3, 2006. The application has been on hold since the TAC meeting due to fees not being paid. An Agreement for Payment of Processing Fees was signed by the applicant on December 26, 2005 agreeing to be billed for time and materials for the processing of the project. The applicant currently owes \$4,900 in time and material fees to Planning Services. Planning Services management has authorized completion of this application despite the applicant's outstanding balance.

Project Description: The request is for a parcel map creating four parcels ranging in size from 9.65 acres to 10 acres, from one 39.65 acre parcel. Design waivers have been requested to allow for a 3,300 foot dead end road which exceeds the maximum permitted length of 500 feet and to allow a roadway width of 20 feet in lieu of 24 feet for the onsite access. The project would be served by private wells and onsite septic wastewater systems.

Site Description

The subject property features a prominent trending ridge in the southwest portion of the parcel and slopes to a north-south drainage on the east half of the parcel and ranges in elevation from 2,600 to 2,800 feet above mean sea level. Slopes range from five to 25 percent over most of the subject property that is characterized by primarily rather steep terrain in various areas and difficult vehicular access. The primary vegetation within the project site consists of oaks, scattered mixed conifers, manzanita shrubs, and grasses.

The on-site roadway for this parcel map already exists as a driveway which currently serves the unimproved parent parcel. The “driveway” would be improved and would serve no more than the parcels involved in this parcel map request, based on the information provided by the applicant’s engineer.

A field visit to the property resulted in the following conclusions:

1. Sweeney Road is a County maintained road that does not satisfy roadway width standards based on the road width being from 12 to 14 feet. The lower portion of Sweeney Road, connecting to Grizzly Flat Road has a chip seal surface and the remainder of the road is gravel and native material. Sweeney Road does not satisfy County Standards or the California Fire Safe Regulations for width and surfacing. The portion of Sweeney Road from Miners Trail to Happy Valley is native material only and is impassable in a 2wd vehicle when the surface is wet or muddy. This portion of the road must be traversed in order to reach the subject property.
2. Miners Trail is a substandard roadway with a gravel and dirt surface with zero to two foot shoulders with a 12 foot width, but has a width of less than 10 feet in various areas. Miners Trail is not a County maintained road, and it is not a through road as property owners have installed gates limiting access.
3. The access roadways are significantly deficient in satisfying Fire Safe standards that require a minimum roadway width of 18 feet with two foot shoulders and the roadway is noticeably obstructed by vegetation. Sweeney Road and Miners Trail do not contain any adequate turnaround areas for a majority of the roadway width. DOT recommends the roads be widened to 18 feet with two foot shoulders to satisfy Fire Safe Standards. Pioneer Fire District in a letter dated 1998 states that a road width minimum of 24 feet will be required for the fire district to provide an adequate level of service. The current fire chief for the Pioneer Fire District is not requiring any improvements as stated in a letter dated October 27, 2007.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	RE-10	RR	Vacant
North	RA-80	NR	Vacant
South	RE-10	NR	Vacant
East	RE-10	RR	Vacant
West	TPZ	NR	Vacant

General Plan: The General Plan designates the subject site as Rural Residential-Platted Lands (RR-PL), which recognizes existing parcel sizes ranging in size from 10 to below 40 acres. Three of the proposed 10-acre parcels therefore conform to the General Plan land use designation minimum, while the proposed 9.65 acre parcel does not. 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. The proposed parcel map does have the potential to establish incompatible land uses with respect to the timber preserves that are evident within the area. Policy 2.2.2.3 states the existence of the -PL overlay cannot be used as a criteria or precedent to expand or establish new incompatible land uses.

It can be argued that the application of RR-PL to this parcel is inappropriately applied since the parcel is effectively 40 acres in size being not less that a quarter of a quarter section of land. The application of Platted Lands overlay designation is to recognize pre-existing lot sizes now considered inconsistent with the intent of the General Plan. The Rural Residential land use designation is applied in combination with the Platted Lands overlay designation to conform to the existing size lot pattern. Had these lands not already be substandard in size, the land use designation would have been Natural Resource which has a minimum parcel size of 40 acres.

Subdividing of this parcel below 40 acres is inconsistent with General Plan Policy 2.2.2.3 which does not allow the further expansion of smaller parcel sizes in the area.

The following General Plan policies apply to this project:

Policy 2.2.5.7 states where a zoning district applied to given land is consistent with the General Plan land use designation, the County reserves the right to deny development plans providing for permitted uses where adequate findings for approval (including adequate public facilities and services) cannot be made. As discussed below staff finds that this project is consistent with Policy 2.2.5.7 in that the project lacks adequate access and may lead to excessive emergency response times.

Policies 6.2.3.1, 6.2.3.2, and 5.7.4.1 direct that as a requirement of new development, the County must find, based on information provided by the applicant and the responsible fire protection district that adequate fire and emergency medical access exists, or can be provided to ensure that emergency vehicles can access the site and private vehicles can evacuate the area. Letters provided from Pioneer Fire Protection District in 1998 and 2006 state that adequate access does not exist and that a response time of 20 minutes could only be met if the access was improved to Fire Safe Regulations. The Fire District stated it did not believe it would be responsible of them to approve such a project as they could not adequately provide emergency services to the subject site. Additionally *Policy 6.2.2.2* directs that the County shall preclude development in areas of high and very high wildland fire hazard areas unless such development can be adequately protected from wildland fire hazard. The subject parcel has been identified as being in a very high wildland fire hazard area and has not provided a fire safe plan showing adequate protection. Therefore, the project is inconsistent with these policies.

Policy 7.4.2.2 directs that where critical wildlife areas and migration corridors are identified the County shall protect the resources from degradation by requiring all portions of the project site that contains or influences said areas to be retained as non-disturbed natural areas through mandatory clustered development. The subject parcel is within the boundaries of a mapped deer migration corridor. In the previous staff report, staff recommended a 20-acre minimum parcel size mitigation measure based on the California Department of Fish and Game's (DFG) recommendations at the time. Subsequent distribution of the project upheld the recommendation of 20 acre parcels. Since the current project proposes lots of ten acres or less, the map would be inconsistent with this policy.

Policy 7.4.4.4 directs that oak woodland shall be preserved through retention of canopy. A tree preservation plan was submitted with the parcel map application; however it does not distinguish between oak, pine, and cedar. When the application was submitted canopy retention was required for all species of trees, but as the application has been on hold for many years the policy has been amended to include native oaks only. Verification of oak canopy retention and consistency with *Policy 7.4.4.4* can not be made.

Policy 8.4.1.1 directs that 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. The subject parcel is adjacent to two parcels, 160 acres and 181 acres, with the Land Use Designation of NR. The proposed subdivision of a 40-acre parcel into four 10 acre parcels is inconsistent with this fundamental, mandatory, and specific General Plan policy.

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

Zoning: The subject site is zoned RE-10 which permits a minimum parcel size of 10-acres where development is feasible. Therefore, three of the four proposed 10-acre parcels conform to existing zoning. The proposed 9.65 acre parcel is consistent with Section 17.14.120.A of the Zoning

Ordinance because the parcel is shown on the county tax roll or recorded deed as a separate parcel, is described as a fractional division of a section, and a subsequent survey of the parcel shows it to be a maximum of ten percent less than the acreage indicated on that tax roll.

Design Waivers Discussion: The following design waivers have been requested; (1) allow a dead end road longer than the maximum of 500 feet in length and (2) allow a roadway width of 20 feet in lieu of the standard 24-foot requirement. An issue that requires careful analysis is the length of the dead-end road proposed for Miners Trail into the project site. The on-site distance of the road is approximately 1,000 feet on the subject property, but its point of origin to Sweeny Road would exceed the County Design and Improvements Standards maximum requirement of 2,640 feet in length, as provided in Section 3(A)(12). The approximate distance to the site from the unimproved Sweeney Road is approximately 3,300 feet. The applicant applied for the above specified design waivers concerning the issue of a dead end road greater than 500 feet and a reduction in the roadway width to 20 feet. The DOT has recommended denial of the requested design waivers without the support of a Fire Safe Plan and the concurrence of the local fire agency. There is no benefit to the public or to approve the project with these design waivers.

Agency/Committee Comments: The Pioneer Fire District provided letters dated 1998 and 2006 commenting on the ability to serve the site with fire and emergency medical services consistent with State Fire Safe regulations and local regulations. The letters discussed the need for adequate access roads to the site that could accommodate fire apparatus vehicles. The Fire District's interpretation of adequate roads is defined as roadways containing a minimum width of 24 feet and a vertical clearance of 15 feet. The letters indicated that Sweeney Road and Miners Trail are substandard roads that do not satisfy California Fire Safe Regulations and that they could not adequately serve the proposed parcels when medical and fire emergencies occur. The conclusion of the Fire District through 2006 has been that the project and the design waivers should not be approved.

A letter was received from Pioneer Fire District dated October 26, 2007 stating that the Fire Chief had no reason to deny the project based on the information provided. The letter provides no justification for the recommendation as the conditions at the site have not changed since the original recommendation was made. Further, exceptions to the California Fire Safe regulations may only be made by the Fire District where the exception provides the same overall effect. No evidence has been submitted showing how the same overall effect has been achieved. Staff has asked the new fire chief for additional information, including a condition letter and assistance with the preparation of a CEQA initial checklist, assuming the project is appealed to the Board of Supervisors.

The Agricultural Commission reviewed the project at its hearing on May 10, 2006. They concluded that the project could be approved as the design provided for the required 200 foot setback from the adjacent TPZ zoned land. The Commission did not comment or make findings concerning consistency with General Plan Policy 8.4.1.1 regarding minimum parcel size for projects adjacent to NR designated lands.

ENVIRONMENTAL REVIEW

This project has been found to be Statutorily Exempt from the requirements of CEQA pursuant to Section 15270(b) of the CEQA Guidelines allowing an initial screening of projects on the merits for quick disapprovals prior to the initiation of the CEQA process where the agency can determine that the project cannot be approved. In this case the project is inconsistent with a number of General Plan policies, thus necessitating the recommendation for denial.

Pursuant to Resolution No. 240-93, 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	Findings
Exhibit A	Vicinity Map
Exhibit B	Tentative Parcel Map
Exhibit C	General Plan Land Use Map
Exhibit D	Zoning Map
Exhibit E	Circulation Map
Exhibit F	Letter from Pioneer Fire dated 1998
Exhibit G	Letter from Pioneer Fire dated 2006
Exhibit H	Comments from DOT dated 1999
Exhibit I	Comments from DOT dated 2006
Exhibit J	Minutes from June 2, 1999 Zoning Administrator
.....	Hearing

ATTACHMENT 1

FINDINGS FOR DENIAL

File Number P98-0012 – Transvest Inc. 2008 Zoning Administrator Hearing

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

1.0 CEQA Finding

- 1.1 This project is found to be Statutorily Exempt from the requirements of CEQA pursuant to Section 15270(b) of the CEQA Guidelines where the agency can determine that the project cannot be approved. The project is unapprovable due to numerous inconsistencies with General Plan policies.

2.0 Parcel Map Findings

- 2.1 The proposed parcel map conforms to the applicable standards and requirements of the County's zoning regulations and the Minor Land Division Ordinance.**

The proposed parcels meet the minimum ten acre parcel size, width and frontage noted in the development standards as required by the Estate Residential Ten-acre (RE-10) Zone District. The proposed parcels do not, however, meet the minimum standard for appropriate circulation and access from a County maintained road as defined under the policies of both the El Dorado County Design and Improvement Standards Manual and California SRA State Fire Safe Regulations, as described in the staff report.

- 2.2 The site is physically suitable for the proposed type and density of development.**

Based on the analysis of site plans, insufficient access and circulation exist to support additional parcels along Miners Trail. Both Sweeney Road and Miners Trail do not meet the minimum width and exceed the maximum dead end length as required by the California Fire Safe regulations and the Design Improvements Standards Manual. Therefore, the project cannot be supported by staff.

- 2.3 The proposed use is consistent with the policies in the El Dorado County 2004 General Plan, adopted July 19, 2004.**

The project is not consistent with the policies in the General Plan. Specifically the project is not consistent with Policies 2.2.2.3, 6.2.3.1, 6.2.3.2, 5.7.4.1, 6.2.2.2, 7.4.2.2, and 8.4.1.1

related to emergency access, development in high fire severity areas, critical wildlife corridors, and subdivision of lands adjacent to NR designated lands, and further expansion of an inappropriate lot size pattern.

3.0 Findings for Denial of Design Waiver Request

3.1 Request to allow a dead end road longer than the maximum of 500 feet in length. The support for the denial of the design waiver is based on the following findings:

3.1.1 There are special conditions or circumstances particular to the property proposed to be subdivided which would justify the adjustment or waiver.

There are no special circumstances applying to the proposed parcels. The project is located over 3,300 feet from a County maintained road that meets Fire Safe regulations minimum for road width. Sweeny Road, a County maintained road, does not meet fire safe widths. Grizzly Flat Road is the closest County maintained road to meet County standards.

3.1.2 The adjustment or waiver would not be injurious to adjacent properties or detrimental to the health, safety, convenience and welfare of the public.

The proposed parcels would be detrimental to the health, safety, convenience, and welfare of the public by exacerbating access for emergency services and safety of adjacent property owners in the event of an emergency. Emergency response times can not be met unless the roads are improved to fire safe widths.

3.1.3 The waiver 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.

Waiving the requirement for the dead-end road length would not be consistent with County Code and could have the effect of nullifying objectives of Article II.

3.2 Allow roadway width of 20 feet in lieu of the standard 24 foot requirement. The support for the design waiver is based on the following findings:

3.2.1 There are special conditions or circumstances particular to the property proposed to be subdivided which would justify the adjustment or waiver.

There are no special circumstances applying to the proposed parcels. The Pioneer Fire District and the Department of Transportation has found no evidence or justification to support a reduction in road width. An updated letter from the Pioneer Fire District provided no justification for the reduced widths.

3.2.2 The adjustment or waiver would not be injurious to adjacent properties or detrimental to the health, safety, convenience and welfare of the public.

The proposed parcels could be detrimental to the health, safety, convenience, and welfare of the public by exacerbating access for emergency services and safety of adjacent property owners in the event of an emergency.

3.2.3 The waiver 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.

Waiving the requirement for the road width would not be consistent with County Code and could have the effect of nullifying objectives of Article II.