

**EL DORADO COUNTY DEVELOPMENT SERVICES  
ZONING ADMINISTRATOR  
STAFF REPORT**



**Agenda of:** September 16, 2009  
**Item No.:** 4.a.  
**Staff:** Jason R. Hade

**TENTATIVE PARCEL MAP**

**FILE NUMBERS:** P08-0006/Ebright Parcel Map

**APPLICANT:** Charles Ebright

**AGENT:** Aspen Environmental/Mike Dill

**PROPERTY OWNER:** Charles Ebright

**REQUEST:** Tentative parcel map to create two parcels of 1.45 and 8.98 acres in size on a 10.43 acre site.

The following design waivers have been requested:

(1) Permit proposed parcel 2B to exceed the depth to width lot ratio and have no street frontage; and (2) Permit Cascade Road to remain 12 to 14 feet wide rather than be improved to 24 feet wide as required by the *El Dorado County Design and Improvement Standards Manual*.

**LOCATION:** On the northeast side of Cascade Road, approximately one mile north of the intersection with State Highway 89 in the South Lake Tahoe area, Supervisorial District V. (Exhibit A)

**APN:** 018-320-11 (Exhibit B)

**ACREAGE:** 10.43 acres

**GENERAL PLAN:** Adopted Plan (AP) Tahoe Regional Planning Agency (TRPA) Tahoe Regional Plan – Plan Area Statement 175 Cascade Properties, Residential Uses (Exhibit C)

**ZONING:** One-Family Residential District (TR1) (Exhibit D)

**ENVIRONMENTAL DOCUMENT:** Negative Declaration

**RECOMMENDATION:**

Staff recommends the Zoning Administrator take the following action:

1. Deny Tentative Parcel Map application P08-0006 based on the Findings in Attachment 1.

**BACKGROUND**

The current parcel configuration was established in 1993 as a result of a land exchange between the U.S. Forest Service and current property owner. A boundary line adjustment (BLA05-0111) was approved by Planning Services in 2006 which further revised the parcel configuration. The current construction yard commercial use is permitted as a legal non-conforming use pursuant to TRPA and County approval in 2001. As proposed, the subject parcel map request would be a subdivision of existing structures with one existing residence on each prospective parcel. TRPA approved the request on February 15, 2006.

**STAFF ANALYSIS**

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

**Project Description**

Tentative parcel map to create two parcels of 1.45 and 8.98 acres in size on a 10.43 acre site. The following design waivers have been requested: (1) Permit proposed parcel 2B to exceed the depth to width lot ratio and have no street frontage; and (2) Permit Cascade Road to remain 12 to 14 feet wide rather than be improved to 24 feet wide as required by the *El Dorado County Design and Improvement Standards Manual*.

**Site Description**

The project site has lake frontage and is located approximately 1.5 miles west of Camp Richardson and one mile southeast of Emerald Bay in the south shore region of Lake Tahoe. The parcel is located at the end of a U-shaped bench at an elevation of 6,240 feet above mean sea level. Parcel topography is flat. The habitat type within the project area is Jeffrey pine. Improvements on the subject site consist of two residences and related accessory structures, an office building, greenhouse, storage buildings, and an operations and maintenance building. The subject site is bordered by single-family residential land uses on all sides. Proposed project access would be from an unnamed access road via Cascade Road. Public sewer service would be provided by the South Tahoe Public Utility District while public water service would be provided by the Cascade Mutual Water Company.

**Adjacent Land Uses**

	<b>Zoning</b>	<b>General Plan</b>	<b>Land Use/Improvements</b>
<b>Site</b>	TR1	AP	Residential/Single-family residences and accessory structures
<b>North</b>	TR1	AP	Residential/Lake Tahoe/Single-family residences
<b>South</b>	TR1	AP	Residential/Single-family residences
<b>East</b>	TR1	AP	Residential/Single-family residences
<b>West</b>	TR1	AP	Residential/Single-family residences

**Access**

Prior to the filing of a parcel map, the applicant must provide a parcel map guarantee, issued by a title company, showing proof of access to a State or County maintained road as defined in 16.44.120(B)(2) with referenced and retraced deeds clearly noted on the parcel map. The applicant submitted a legal opinion from an attorney, attached as Exhibit H, indicating that such legal access exists for the subject site. A proposed access plan submitted by the applicant is also attached as Exhibit F. However, the current unnamed access road appears to be a prescriptive easement intended to serve only the current parcel and not the additional proposed parcel. As of the time of preparation of this staff report, the applicant has not demonstrated through a parcel map guarantee the ability to make the required off-site fire safe road improvements discussed below because no such easement exists. Without resolution of the applicant’s easement rights, fire safe access to the proposed parcels could not be achieved without the use of eminent domain by the County or waiver of the off-site fire safe road improvements under the Subdivision Map Act. Staff believes there would be no public benefit to utilizing eminent domain to create one additional parcel. Further, the applicant’s inability to complete the required minimum fire safe road improvements within the easement would result in inadequate emergency access to any potential future residential structure. Because of inadequate access, staff recommends denial of the tentative parcel map.

**Design Waivers**

The following design waivers have been requested: (1) Permit proposed parcel 2B to exceed the depth to width lot ratio and have no street frontage; and (2) Permit Cascade Road to remain 12 to 14 feet wide rather than be improved to 24 feet wide as required by the *El Dorado County Design and Improvement Standards Manual (DISM)*.

Proposed parcel 2B has a width of 150 feet and a depth of 475 feet. Therefore, proposed parcel 2B only exceeds the maximum lot depth by 25 feet. Further, strict compliance with the DISM would prevent compliance with Chapter 20 of the TRPA Code of Ordinances. The proposed parcel line configuration would be consistent with the TRPA requirements for land coverage. As such, staff recommends approval of this design waiver request. Appropriate findings for approval are included within Attachment 1.

According to the applicant, the existing main access road, Cascade Road, is a private road that was approved by the County and paved in 2003 at 14-feet wide with turnouts. The existing and proposed access road to the subject parcels is currently 12 to 14 feet wide compacted gravel with turnouts and soft shoulders. There is currently one fire hydrant along the access road.

Comments received by the Lake Valley Fire Protection District (LVFPD) are attached as Exhibit I. As shown in their comments, the LVFPD recommends conditional approval of the project with 12 foot wide fire access roads in addition to the other recommended conditions of approval such as the installation of a fire safe turnaround and additional fire hydrant. However, revised Department of Transportation (DOT) and CAL FIRE comments, attached as Exhibits K and L respectively, would require the improvement of the current 12-foot wide gravel roadway connecting the subject site to Cascade Road to a minimum of 20 feet wide. Although the County's DISM would also require the widening of Cascade Road to 20 feet wide from State Route 89 to the current roadway connecting the subject site to Cascade Road, DOT is not recommending improvements be required for Cascade Road. Additionally, DOT is not recommending that the current roadway connecting the subject site to Cascade Road be required to be paved as required under the DISM because of the project site's elevation. While the DISM and fire safe regulations would require a 20-foot road width for the unnamed access road, DOT would permit an 18-foot road width with one-foot wide shoulders to achieve the 20-foot road width. However, the applicant's second design waiver request is to make no improvements. After numerous meetings with the applicant, including an on-site meeting with the applicant, DOT, Lake Valley Fire Protection District, and CAL FIRE representatives on June 15, 2009, the applicant is still not able or willing to make the required off-site minimum fire safe road improvements described above. Staff recommends denial of this design waiver request. Appropriate findings for denial are included within Attachment 1.

Construction of the required off-site road improvements would be subject to TRPA's offsite coverage fees because new land coverage is being created in the public right-of-way. According to TRPA, the mitigation fees for new offsite land coverage are calculated by the cost-per-square foot of land coverage in the project's hydrologic area. These fees are forwarded to public agencies in each state where an equivalent amount of land coverage is purchased with the mitigation fees and permanently removed.

### **Fire**

Project comments received from the Lake Valley Fire Protection District and CAL FIRE are attached as Exhibits I and L respectively and discussed under the design waiver section above. In a phone conversation with Gareth Harris, Lake Valley Fire Protection District Fire Marshall, on June 15 Mr. Harris noted that the limited width of Cascade Road created a "bottleneck" for emergency vehicles responding to a fire at the subject site this past winter. Staff believes approval of this project without the minimum off-site road improvements would further risk public health, safety, and welfare in future emergency situations.

### **Land Use Compatibility**

As discussed above, the subject site is surrounded by residential uses. The proposed project would create one additional residential parcel from an existing parcel within an existing residential area. The proposed project density is consistent with surrounding residential densities. Therefore, the proposed project is compatible within the context of the surrounding land uses pursuant to General Plan Policy 2.2.5.21.

### **Wastewater**

Public sewer service would be provided by the South Tahoe Public Utility District. As noted in a letter of January 12, 2008, the South Tahoe Public Utility District has the sewer capacity to serve this project.

### **Water**

The Cascade Mutual Water Company provided a letter dated December 29, 2008 indicating that it has adequate water supplies to serve the project. Therefore, no new or expanded offsite water facilities would be necessary to serve the proposed project. The Environmental Management Department reviewed the documentation provided by the Cascade Mutual Water Company and issued a letter on May 12, 2009 which concurred with the recommendations subject to a pump test being satisfactorily conducted between the months of August and October 2009. Based on this information, the project would be consistent with General Plan Policy 5.2.1.4 regarding availability of reliable water supply.

### **GENERAL PLAN**

This project is inconsistent with significant applicable policies of the adopted 2004 El Dorado County General Plan. Findings for inconsistency with the General Plan are provided in Attachment 1. The policies and issues that affect this project are discussed below.

**Policy 2.1.1.7** directs that *development be limited in some cases until such time as adequate roadways, utilities, and other public service infrastructure becomes available and wildfire hazards are mitigated.*

Discussion: As discussed above, the applicant's inability and unwillingness to make the required off-site road improvements would result in roadways which are inadequate to serve the proposed parcel map.

**Policy 2.2.1.2:** The County General Plan designates the subject parcel as Adopted Plan, which refers to the Tahoe Regional Planning Agency's Regional Plan. The parcel is located within TRPA Plan Area Statement (PAS) 175, Cascade Properties, which is primarily intended for residential use.

Discussion: The proposed project density and use is consistent with the density and use permitted under TRPA Plan Area Statement (PAS) 175, Cascade Properties.

**Policy 5.7.1.1** directs that the applicant demonstrate that adequate emergency water supply, storage, conveyance facilities, and access for fire protection either are or would be provided concurrent with development.

Discussion: The project would be conditioned by the El Dorado County Department of Transportation to meet the minimum State Responsibility Area (SRA) Fire Safe Regulations for road surface and road width prior to development. As outlined above, the applicant's inability to make such road improvements would result in inadequate access for fire protection.

**Policy 6.2.2.2** states that the County shall preclude development in areas of high and very high fire hazard or in areas identified as "urban wildland interface communities within the vicinity of Federal lands that are a high risk for wildfire," as listed in the Federal Register of August 17, 2001, unless such development can be adequately protected from wildland fire hazard, as demonstrated in a Fire Safe Plan prepared by a Registered Professional Forester (RPF) and approved by the local Fire Protection District and/or California Department of Forestry and Fire Protection.

Discussion: The project is located within a very high fire hazard area and would require the submittal and approval of a fire safe plan subject to approval by the Lake Valley Fire Protection District and CAL FIRE. The project's location within a very high fire hazard area is further evidence that the requested design waiver to not make the required fire safe road improvements to the off-site access roadway connecting the subject site to Cascade Road is inappropriate and should be denied.

**Policy 6.2.3.2** directs that the applicant demonstrate that adequate access exists, or can be provided to ensure that emergency vehicles can access the site and private vehicles can evacuate the area.

Discussion: As discussed under the Access and Design Waiver sections above, the project would result in roadways which would be inadequate to serve the proposed parcel map.

Conclusion: As discussed above, staff finds that the parcel map, as proposed, is inconsistent with significant applicable policies of the County General Plan. Findings for inconsistency with the General Plan are provided in Attachment 1.

## **ZONING**

The subject site is currently zoned One-Family Residential District (TR1) which permits a minimum lot area of 7,000 square feet when the lot is served with public water and a sewage system. The proposed 1.45 and 8.98 acre parcels would conform to existing zoning and the development standards in Section 17.56.040 for minimum lot width of 60 feet, minimum lot area of 7,000 square feet, building setback requirements of 20/5/15 (front/side/rear) feet from parcel boundaries and road easements, as well having the space to comply with the parking requirements of two spaces not in tandem per dwelling unit pursuant to Section 17.18.060. As proposed, the subject parcel map request would be a subdivision of existing structures with one existing residence on each prospective parcel.

## **ENVIRONMENTAL REVIEW**

Staff has prepared an Initial Study (Exhibit M) to assess project-related environmental impacts. Based on the Initial Study, staff has determined that there is no substantial evidence that the

proposed project would have a significant effect on the environment Therefore, 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 \$1,993.00 after approval, but prior to the County filing the Notice of Determination on the project. This fee plus a \$50.<sup>00</sup> recording fee, is to be submitted to Planning Services and must be made payable to El Dorado County. The \$1,993.00 is forwarded to the State Department of Fish and Game and is used to help defray the cost of managing and protecting the States fish and wildlife resources. However, staff has determined that the project would have no impact on biological resources. Potential impacts to biological resources would be further evaluated at time of development plan application submittal. As such, the applicant may request a “No Effect Determination Form” from the California Department of Fish and Game to waive payment of said fee.

## **SUPPORT INFORMATION**

### **Attachments to Staff Report:**

Attachment 1 .....	Findings
Exhibit A .....	Vicinity Map
Exhibit B .....	Assessor’s Parcel Map Page
Exhibit C .....	General Plan Land Use Map
Exhibit D .....	Zoning Map
Exhibit E .....	Tentative Parcel Map
Exhibit F .....	Applicant’s Access Plan
Exhibit G .....	Applicant’s Design Waiver Request
Exhibit H .....	Applicant’s Access Information – May 5, 2008
Exhibit I .....	Lake Valley Fire Protection District Comments – May 29, 2008
Exhibit J .....	Department of Transportation Comments – November 7, 2008
Exhibit K .....	Revised Department of Transportation Comments – April 28, 2009
Exhibit L .....	CAL FIRE Comments – May 6, 2009
Exhibit M .....	Environmental Checklist & Discussion of Impacts

# **ATTACHMENT 1** **FINDINGS**

## **PARCEL MAP P08-0006**

### **FINDINGS FOR DENIAL**

#### **1.0 CEQA Findings**

- 1.1 El Dorado County has considered the Negative Declaration together with the comments received during the public review process. The Negative Declaration reflects the independent judgment of the County and has been completed in compliance with CEQA and is adequate for this project.
- 1.2 No significant impacts to the environment as a result of this project were identified in the initial study.
- 1.3 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 located at 2850 Fairlane Court, Placerville, CA.

#### **2.0 GENERAL PLAN FINDINGS**

- 2.1 As proposed, the project is consistent with the Adopted Plan (AP) land use designation of the subject site, as defined by General Plan Policy 2.2.1.2, which refers to the Tahoe Regional Planning Agency's Regional Plan, because the parcel is located within TRPA Plan Area Statement (PAS) 175, Cascade Properties, which is primarily intended for residential use.
- 2.2 The proposal is inconsistent with significant applicable Policies of the General Plan including 2.1.1.7 (adequate infrastructure), 5.7.1.1 (fire protection), 6.2.2.2 (very high fire hazard area), and 6.2.3.2 (access). The project does not provide adequate access for emergency vehicles and is inconsistent with the General Plan policies identified above.

#### **3.0 ZONING FINDINGS**

- 3.1 The project, as proposed and conditioned, is consistent with the El Dorado County Zoning Ordinance Development Standards because the proposed parcels meet the development standards of the TR1 zone district pursuant to section 17.56.040 for minimum parcel areas and lot widths, and to permit the yard setbacks required of future residential development.

#### **4.0 ADMINISTRATIVE FINDINGS**

##### **4.1 Tentative Parcel Map**

- 4.1.1 *The proposed tentative map, including design and improvements, is consistent with the General Plan and Specific Plan, where applicable.* As proposed, the tentative map conforms to TRPA's Plan Area Statement 175 Cascade Properties, Residential Uses but does not conform to significant applicable General Plan policies concerning adequate roadways and access for emergency vehicles.
- 4.1.2 *The tentative map conforms to the applicable standards and requirements of the County's zoning regulations and Minor Land Division Ordinance.* The proposed parcel sizes of 1.45 and 8.98 acres conform to the 7,000 square foot minimum parcel size of the TR1 zone district. Additionally, the project conforms to the applicable provisions of the Minor Land Division Ordinance.
- 4.1.3 *The site is physically suitable for the proposed type and density of development.* The creation of one additional parcel at the 10.43 acre site is inappropriate due to inadequate access and lack of fire safe roadways.
- 4.1.4 *The proposed subdivision is not likely to cause substantial environmental damage.* A negative declaration was prepared for the proposed tentative parcel map. Based on the initial study, it was determined that the project would not have a significant effect on the environment.

## **5.0 DESIGN WAIVER APPROVAL FINDINGS**

### **5.1 Permit proposed parcel 2B to exceed the depth to width lot ratio and have no street frontage.**

- 5.1.1 *There are special conditions or circumstances peculiar to the property proposed to be divided which would justify the adjustment or waiver.* Proposed parcel 2B has a width of 150 feet and a depth of 475 feet. Therefore, proposed parcel 2B only exceeds the maximum lot depth by 25 feet. The current parcel configuration was established in 1993 as a result of a land exchange between the U.S. Forest Service and current property owner. A boundary line adjustment (BLA05-0111) was approved by Planning Services in 2006 which further revised the parcel configuration. The current commercial use is permitted pursuant to TRPA approval in 2001.
- 5.1.2 *Strict application of County design and improvement requirements would cause extraordinary and unnecessary hardship in developing the property.* Strict compliance with the DISM would prevent compliance with Chapter 20 of the TRPA Code of Ordinances. The proposed parcel line configuration is consistent with the TRPA requirements for land coverage.
- 5.1.3 *The adjustment or waivers would not be injurious to adjacent properties or detrimental to the health, safety, convenience and welfare of the public.* The waiver will not be injurious to

adjacent properties or detrimental to the health, safety, convenience and welfare of the public as proposed parcel 2B only exceeds the maximum lot depth by 25 feet.

5.1.4 *The waivers 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.* The requested design waiver will not hinder the County's implementation of the Subdivision Map Act as outlined in Article II of Chapter 16 of County Code or any of the other applicable ordinances discussed within the staff report.

**5.2 Permit Cascade Road to remain 12 to 14 feet wide rather than be improved to 24 feet wide as required by the *El Dorado County Design and Improvement Standards Manual*.**

5.2.1 *There are special conditions or circumstances peculiar to the property proposed to be divided which would justify the adjustment or waiver.* According to the applicant, the existing main access road, Cascade Road, is a private road that was approved by the County and paved in 2003 at 14-foot wide with turnouts. The existing and proposed unnamed access road to the subject parcels is currently 12 to 14 feet wide compacted gravel with turnouts and soft shoulders. Lake Valley Fire Protection District reviewed the requested design waiver and had no objections. However, DOT and CAL FIRE recommend the unnamed access roadway from Cascade Road to the subject site be widened to 20 feet as required by the DISM. No improvements are recommended for Cascade Road. As such, DOT and CAL FIRE are not supportive of the design waiver request. There are not sufficient special conditions to the property which would justify the waiver of minimum fire safe requirements.

5.2.2 *Strict application of County design and improvement requirements would cause extraordinary and unnecessary hardship in developing the property.* Strict application of the DISM would not cause extraordinary and unnecessary hardship in developing the property as DOT is not requiring any improvements to Cascade Road nor that the off-site access roadway from Cascade Road to the subject site be paved, both of which could be required under the DISM. Off-site road improvements to meet minimum fire safe standards consist of widening the existing gravel access roadway from 12 feet to 18 feet wide with one-foot shoulders. If the access easement can be secured, sufficient space is available to make the required off-site road improvements.

5.2.3 *The adjustment or waivers would not be injurious to adjacent properties or detrimental to the health, safety, convenience and welfare of the public.* Both DOT and CAL FIRE reviewed the design waiver request and have concerns regarding the existing 12 to 14 foot-wide access roadway not being improved to meet minimum fire safe standards. The project site is located within a very high fire hazard area. As such, the waiver would be injurious to adjacent properties and detrimental to the health, safety, convenience and welfare of the public. As mentioned above, insufficient site access resulted in challenges for emergency vehicles responding to a fire at the subject site this past winter.

5.2.4 *The waivers 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.* The requested design waiver will hinder the County's implementation of the Subdivision Map Act as outlined in Article II of Chapter 16 of County Code because the applicant does not have the easement rights to make the required off-site fire safe road improvements resulting in inadequate emergency access to any potential future residential structure without the County's use of eminent domain to acquire the land necessary for the off-site road improvements.

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