

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



Agenda of: December 2, 2015
Item No.: 4.a.
Staff: Aaron Mount

TENTATIVE PARCEL MAP

FILE NUMBER: P06-0039/Musso

APPLICANT: Kenneth and Ann Musso (Property Owners)

ENGINEER: Lebeck Young Engineering

REQUEST: The proposed project consists of the following requests:

1. Tentative parcel map to create two lots 20 and 24.79 acres in size. (Exhibit E)
2. Design Waiver is requested from Standard Plan 101C to allow: The off-site roadway width of Graybar Mine Road to be left unmodified rather than widened to a minimum of 18 feet.

LOCATION: The property is on the east and west side of Graybar Mine Road, approximately 3,200 feet north of the intersection with Greenwood Road, in the Garden Valley area, Supervisorial District 4. (Exhibit A)

APN: 060-140-45 (Exhibit B)

ACREAGE: 44.79 acres

GENERAL PLAN: Agricultural Lands-Agricultural District (AL-A) and Rural Residential-Agricultural District (RR-A). (Exhibit C)

ZONING: Estate Residential Five-Acre (RE-5) and Estate Residential Ten-Acre (RE-10). (Exhibit D)

ENVIRONMENTAL DOCUMENT: Negative Declaration

RECOMMENDATION: Staff recommends that the Zoning Administrator take the following actions:

1. Adopt the Negative Declaration, based on the Initial Study prepared by staff;
2. Approve Tentative Parcel Map P06-0039, based on the Findings and subject to the Conditions of Approval as presented; and,
3. Approve the Design Waiver to allow the off-site roadway width of Graybar Mine Road to be left unmodified rather than widening to a minimum of 18 feet per Standard Plan 101C.

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

Project and Site Description:

Request for a Tentative Parcel Map to create two parcels, 20 and 24.79 acres, from a 44.79-acre site (Exhibit E).

The elevation of the project parcel ranges from approximately 2,150 to 2,300 feet above sea level. The site is somewhat hilly sloping mostly from west to east. Graybar Mine Road provides access to both proposed lots. Two other private roads cross the project parcel and provide access to parcels beyond the project site. The site contains a vineyard on the portion of the project parcel west of Graybar Mine Road. The parcel is not developed other than the improved agricultural use. The remainder of the site is covered with pine trees, oak trees, and madrone with an understory of shrubs and grass. Manhattan Creek runs through the northeast portion of the project parcel and will be completely avoided by placement of a 100-foot non-building setback.

Project Discussion:

Staff has analyzed the project in detail and has provided Conditions of Approval based on agency comments. Discussion items include traffic, building permits, and a boundary line adjustment.

Traffic and roads: The proposed project does not trigger the General Plan threshold for a traffic study and, therefore, a traffic study is not required. Both parcels would be accessed from the existing County-maintained Graybar Mine Road. Two private roads, Jacobus Drive and Gambles Pass, cross the project parcel and provide access for adjoining parcels. The Transportation Division and Garden Valley Fire Protection District have reviewed the project and have concluded that the existing circulation is adequate for the proposed parcel map.

Sewage disposal and potable water: The site would be served by individual septic systems and wells. The property owner submitted a building permit for a single family residence that was later withdrawn, but the permit plan check included a review of required septic and well reports. The Environmental Management Division has reviewed the project and determined that there is adequate area for septic systems and wells that would provide adequate amounts of potable water for any subsequent development of the parcels.

Design Waiver Requests: A Design Waiver request would allow variation from the requirements of the El Dorado County Design and Improvement Standards Manual (DISM) to allow the off-site roadway width of Graybar Mine Road to be left unmodified rather than widened to a minimum of 18 feet per Standard Plan 101C.

County Planning and Transportation Divisions and the Garden Valley Fire Department have reviewed the requests and found no objections to the Design Waiver request. The on-site portions of Graybar Mine Road were previously improved under a Conditional Certificate of Compliance (COC04-0064) that applied to the project parcel requiring widening of the road to two nine foot travel lanes. The Findings for Approval at the end of this Staff Report include the required Design Waiver findings.

General Plan: The General Plan designates the subject site as Agricultural Lands-Agricultural District (AL-A) and Rural Residential-Agricultural District (RR-A) and **Policy 2.2.1.2** identifies the AL and RR land use designations as areas for residential and agricultural uses. These designations are considered appropriate only within rural regions. 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. The maximum allowable density is one dwelling unit per 20 acres for parcels within the -A overlay that contain choice soils. The project parcel contains such soils and as proposed, the 20 and 24.79 acre parcels are consistent with these land use designations.

Land Use Compatibility: **Policy 2.2.5.21** directs that new development be compatible with the surrounding neighborhood.

Discussion: The parcel sizes and residential and agricultural uses would be consistent and compatible with the development pattern in the immediate surroundings.

Fire Protection: **Policy 5.7.1.1**, Fire Protection in Community Regions, requires the applicant to demonstrate that adequate emergency water supply, storage and conveyance facilities, and access for fire protection either are or will be provided concurrent with development. **Policy 6.2.2.2**, Wildland Fire Hazards, requires that the County preclude development in areas designated as high and very high wildland fire hazard unless such development can be adequately protected from wildland fire hazards 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. **Policy 6.2.3.2**, Adequate Access for Emergencies, requires 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: The Garden Valley Fire Protection District found that the parcel map presents no impact in their ability to respond. At the time of building permits, the fire district will review the development proposal and ensure that there are adequate fire protection measures. A fire safe plan approved by the applicable fire agencies has been implemented for the project site. The project is consistent with these General Plan policies relating to fire protection.

Conservation of Water Resources: **Policy 7.3.3.4** states that “the County shall apply a minimum setback of 100 feet from all perennial streams, rivers, lakes, and 50 feet from intermittent streams and wetlands”.

Discussion: As shown on the Parcel Map, Manhattan Creek flows through the northeastern portion of the parcel. The engineer has shown the required 100-foot non-disturbance setback on the parcel map and this setback is required to be included on the final recorded map. The setback will ensure that there are no direct impacts to the stream and is therefore consistent with General Plan Policy 7.3.3.4.

Oak Woodland Resources: **Policy 7.4.4.4** requires oak tree canopy retention and replacement standards.

Discussion: No oak trees are proposed to be removed as part of the parcel map.

Conclusion: It has been determined that the project would be in compliance with the applicable General Plan Policies. Findings of Consistency with the General Plan are provided in the attached Findings.

Zoning Consistency: The project has been analyzed for consistency with Zoning Ordinance Sections 130.28.210 and 130.70.110 (RE-5 and RE-10 Development Standards respectively) for minimum lot size, widths and building setbacks. The proposed lots meet the minimum lot size and width standards for their zones.

ENVIRONMENTAL REVIEW: Staff has prepared an Initial Study, Environmental Checklist Form (Exhibit F). Staff has determined that there is no substantial evidence that the proposed project would have a significant effect on the environment, and a Negative Declaration has been prepared.

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.). In accordance with State Legislation (California Fish and Game Code Section 711.4), the project is subject to the current fee prior to the County filing the Notice of Determination on the project. This fee, plus a \$50.00 administration fee, is to be submitted to Development Services and must be made payable to El Dorado County. The fee is forwarded to the State Department of Fish and Wildlife and is used to help defray the cost of managing and protecting the State’s fish and wildlife resources.

SUPPORT INFORMATION

Findings

Conditions of Approval

Exhibit A.....	Location Map
Exhibit B.....	Assessor's Parcel Map
Exhibit C.....	General Plan Map
Exhibit D.....	Zoning Map
Exhibit E.....	Tentative Parcel Map; May 2006
Exhibit F.....	Proposed Negative Declaration and Initial Study

FINDINGS

Tentative Parcel Map P06-0039/Musso Zoning Administrator/December 2, 2015

1.0 CEQA FINDINGS

- 1.1 El Dorado County has considered the Negative Declaration together with the comments received and considered 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 proposal.
- 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 Division, Planning Services, at 2850 Fairlane Court, Placerville, CA, 95667.

2.0 GENERAL PLAN FINDINGS

2.1 The project is consistent with General Plan Policy 2.2.5.21

General Plan Policy 2.2.5.21 requires that development projects be located and designed in a manner that avoids incompatibility with adjoining land uses. The project site is surrounded by developed residential uses, which are compatible with the proposed development.

2.2 The project is consistent with General Plan Policy 5.2.1.2

General Plan Policy 5.2.1.2 requires that adequate quantity and quality of water for all uses, including fire protection, be provided with proposed development. The Environmental Management Division has determined that the project is not located in an area known to be ground water deficient. A reliable water supply for each lot shall be established prior to filing of the parcel map.

2.3 The project is consistent with General Plan Policy 5.7.1.1

General Plan Policy 5.7.1.1 requires the applicant to demonstrate that adequate emergency water supply, storage, conveyance facilities, and access for fire protection would be provided concurrent with development. The Garden Valley Fire Protection District would provide fire protection service to the project site. Future development of the site would require water storage for fire suppression. An approved fire safe plan has been implemented for the project site.

2.4 The project is consistent with General Plan Policy 6.2.2.2

General Plan Policy 6.2.2.2 requires the County to preclude development in areas of high and very high wildland fire hazard unless such development can be adequately protected from wildland fire hazards as demonstrated in a Fire Safe Plan prepared by a Registered Professional Forester and approved by the local Fire Protection District and/or California Department of Forestry and Fire Protection. An approved fire safe plan has been implemented for the project site.

2.6 The project is consistent with General Plan Policy 6.2.3.2

General Plan Policy 6.2.3.2 directs the applicant to demonstrate that adequate access exists, or can be provided for emergency vehicles and private vehicles to access and evacuate the area. The Garden Valley Fire Protection District found that the parcel map presents no impact in their ability to respond. A fire safe plan approved by the applicable fire agencies has been implemented for the project site.

2.7 The project is consistent with General Plan Policy 7.3.3.4

General Plan Policy 7.3.3.4 directs that the County shall apply a minimum setback of 100 feet from all perennial streams, rivers, lakes, and 50 feet from intermittent streams and wetlands. Manhattan Creek runs through the northeastern portion of the property and the applicant has shown a 100-foot setback on the parcel map that ensures consistency.

3.0 ZONING FINDINGS

3.1 The proposed use is consistent with Title 130.

The project has been analyzed in accordance with Zoning Ordinance Sections 130.28.210 and 130.70.110 (RE-5 and RE-10 Development Standards respectively) for minimum lot size, widths and building setbacks. The proposed lots meet the minimum lot size and width standards.

4.0 PARCEL MAP FINDINGS

4.1 The proposed tentative map, including design and improvements, is consistent with the General Plan.

The proposed Parcel Map is consistent with the General Plan as set forth in Finding 2.0.

4.2 The proposed Parcel Map conforms to the applicable standards and requirements of the County zoning regulations and Minor Land Division Ordinance.

The parcels have been analyzed in accordance with Sections 130.28.210 and 130.70.110 (RE-5 and RE-10 Development Standards respectively) of the Zoning Ordinance and comply with the required minimum lot area and minimum lot width requirements. As proposed and conditioned, the Parcel Map conforms to the Minor Land Division Ordinance.

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

The proposed development meets the density requirements of the Agricultural Lands-Agricultural District (AL-A) and Rural Residential-Agricultural District (RR-A) land use designations and conforms to the minimum parcel size and development standards of the RE-5 and RE-10 zone districts.

4.4 The proposed subdivision is not likely to cause substantial environmental damage.

The project impacts have been analyzed in the Negative Declaration and the project would not cause substantial environmental damage.

5.0 Design Waiver Approval Findings

5.1 Allow the off-site roadway width of Graybar Mine Road to be left unmodified rather than widened to a minimum of 18 feet per Standard Plan 101C. Support for the design waiver is based on the following findings:

5.1.1 There are special conditions for circumstances peculiar to the property proposed to be divided which would justify the adjustment or waiver.

Garden Valley Fire Protection District and the Transportation Division reviewed the application and support the reduced standard width of the off-site roadway. The Garden Valley Fire Protection District found that the parcel map presents no impact in their ability to respond. Road improvements would have the potential of impacting a water supply canal that parallels and crosses Graybar Mine Road.

5.1.2 Strict application of County design and improvement requirements would cause extraordinary and unnecessary hardship in developing the property.

The length of the road to access the site is up to a mile in length, and the improvement of the road would cause extraordinary hardship for the development of one additional parcel. According to the Garden Valley Fire Protection District, and the El Dorado County Transportation Division, road widening is not necessary for this project, so strict application of the standards would cause unnecessary hardship for the applicant.

- 5.1.3 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 road width meets the requirements of the Fire Department and Transportation.

Garden Valley Fire Protection District and the Transportation Division reviewed the application and support the reduced standard width of the roadway. The Garden Valley Fire Protection District found that the parcel map presents no impact in their ability to respond.

- 5.1.4 This 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 because the project has been conditioned to meet all applicable County Codes.

With a waiver from this design standard, the project would remain consistent with zoning regulations and General Plan policies. No significant impacts were identified in the Initial Study, which incorporated the design waiver request as part of the project description. Leaving the roads unmodified would not be in conflict with or nullify the objectives of any other ordinance or standard.

CONDITIONS OF APPROVAL

Tentative Parcel Map P06-0039/Musso Zoning Administrator/December 2, 2015

1. This Tentative Parcel Map is based upon and limited to compliance with the project description, the hearing exhibits marked,

Exhibit ETentative Parcel Map dated May 2006

and Conditions of Approval set forth below. Any deviations from the project description, exhibits, or conditions must 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 would constitute a violation of permit approval.

The project description is as follows:

The project allows the creation of two parcels of approximately 20 and 24.79 acres in size from a 44.79-acre site identified by Assessor's Parcel Number 060-140-45. Both parcels shall be served by wells and individual septic systems.

The development, use, and maintenance of the property, the size, shape 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.

Development Services Division

2. **Permit Time Limits:** This Tentative Parcel Map shall expire 36 months from the date of approval unless a timely extension has been filed.
3. **Fish and Wildlife Fee:** The applicant shall submit to Planning Services a \$50.00 recording fee and the current Department of Fish and Wildlife fee prior to filing of the Notice of Determination by the County. Please submit check for the total amount to Planning Services and make the check payable to El Dorado County. No permits shall be issued or final map filed until said fees are paid.
4. **Indemnity:** 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 developer and land owner 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 of El Dorado County concerning a Parcel Map.

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

5. **Stream Setback:** A 100 foot setback line shall be recorded on the final map that begins at the high-water marks of Manhattan Creek. No development shall occur within the setback area. The identification shall be made on the final map.
6. **Archeological Resources:** The following shall be incorporated as a note on the grading/improvement plans:

In the event archeological resources are discovered during grading and construction activities, the applicant shall ensure that all such activities cease within 50 feet of the discovery until an archaeologist can examine the find in place. If the find is determined to be a “unique archeological resource”, contingency funding and a time allotment sufficient to allow recovering an archaeological sample or to employ one of the avoidance measures may be required under the provisions set forth in Section 21083.2 of the Public Resources Code. Construction work could continue on other parts of the project site while archaeological mitigation takes place.

If the find is determined to be a “unique archeological resource”, the archaeologist shall determine the proper method(s) for handling the resource or item in accordance with Section 21083.2(b-k). Any additional costs as a result of complying with this section shall be borne by the project applicant. Grading and construction activities may resume after appropriate measures are taken or the site is determined a “nonunique archeological resource”.

Planning Services shall verify the inclusion of this notation on the grading plans prior to the issuance of a grading permit.

7. **Human Remains:** The following shall be incorporated as a note on the grading/improvement plans:

In the event of the discovery of human remains, all work shall cease and the County Coroner shall be immediately notified pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code and Section 5097.98 of the Public Resources Code. The Coroner shall make his or her determination within two working days from the time the person responsible for the excavation, or his or her authorized representative, notifies the Coroner of the discovery or recognition of the human remains. If the Coroner determines that the remains are not subject to his or her authority and if the Coroner recognizes the human remains to be those of a Native American, or has reason to believe that they are those of a Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission.

Upon the discovery of the Native American remains, the landowner shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards or practices, where the Native American human remains are located, is not damaged or disturbed by further development activity until the landowner has discussed and conferred, as prescribed in Section 5097.98 of the Public Resources Code, with the most

likely descendants regarding their recommendations. The descendants shall complete their inspection and make their recommendation within 48 hours of their notification by the Native American Heritage Commission. The recommendation may include the scientific removal and nondestructive analysis of human remains and items associated with Native American burials or other proper method(s) for handling the remains in accordance with Section 5097.98(b-h). Any additional costs as a result of complying with this section shall be borne by the project applicant. Grading and construction activities may resume after appropriate measures are taken.

Planning Services shall verify the inclusion of this notation on the grading plans prior to the issuance of a grading permit.

Office of County Surveyor

8. **Survey Monuments:** All survey monuments shall be set prior to filing the Parcel Map.
9. **Conditions of Approval:** Prior to filing the Parcel Map, a letter shall be required from all agencies that have placed conditions on the map. The letter shall state that “all conditions placed on P06-0039 by (that agency) have been satisfied.” The letter shall be sent to the County Surveyor and copied to the consultant and the applicant.

El Dorado County Transportation Division

10. **Encroachment Permit:** The applicant shall obtain encroachment permits for access to Graybar Mine Road concurrently with the building permits.
11. **Road and Public Utility Easements:** The applicant shall irrevocably offer to dedicate a 50-foot wide right-of-way for the on-site portion of Graybar Mine Road, shown on the final recorded map. Slope easements shall be included as necessary. This offer will be accepted by the County.
12. **TIM Fees:** The applicant shall pay the traffic impact mitigation fees at issuance of the first building permit on each parcel.

El Dorado County Environmental Management Division

13. **Water:** The applicant shall provide a reliable water source for all proposed parcels that meets the requirements of El Dorado County Policy #800-02. A shared well system shall be prohibited as proof of water for the creation of new lots. Where feasible, wells supplying water for domestic residential use should be located on the parcel being served. Wells serving residential parcels may be located on other residential parcels, provided that such well and pipeline improvements are located within a designated easement appurtenant to the parcel being served by the well. Easements for well and pipeline improvements on servient parcels shall be shown on all Final Maps prior to approval and filing.