

10/18/11 #17

P07-0025-R – As approved by the Board of Supervisors on October 18, 2011

Findings

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 be made:

FINDINGS FOR APPROVAL

1.0 CEQA FINDINGS

- 1.1 Staff has determined that the project revision is covered by the scope of the previous Negative Declaration and pursuant to Section 15162(b) of the CEQA Guidelines, no further documentation is necessary.
- 1.2 No significant impacts to the environment as a result of this project were identified in the Previous Initial Study.
- 1.3 The documents and other materials which constitute the record of proceedings upon which this decision is based are in custody of the Development Services Department-Planning Services at 2850 Fairlane Court, Placerville, CA 95667.

2.0 APPLICABLE GENERAL PLAN CONSISTENCY FINDINGS

- 2.1 The proposal, as revised and conditioned, is consistent with the intent of Policies 2.1.1.7, 5.7.1.1, 6.2.3.2, and because, upon completion of the conditions, there will be adequate roadways, utilities, and other public service infrastructure available. The project is consistent with the dominant lot pattern of development in the direct project vicinity and wildfire hazards have been addressed.

3.0 DESIGN WAIVER APPROVAL FINDINGS FROM TENTATIVE PARCEL MAP P07-0025

- 3.1 To allow the length of a dead end street from 2,640 feet to a length of 5,280 feet, in compliance with the El Dorado County Department of Forestry SRA Fire Safe Regulations 1273.09(a) Dead End Roads which allows the maximum length of a dead-end road not to exceed 5,280 feet.
 - 3.1.1 *There are special conditions or circumstances peculiar to the property proposed to be divided which would justify the adjustment or waiver.*

The proposed access road would meet the County's road standards in terms of width but can not be looped because Burkett Lane is cut off by the American River to the north, as is Rattlesnake Bar Road. There are no other alternatives for secondary access.

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

The project would only result in the creation of two additional lots to be served by Burkett Lane, which presently serves 10 additional parcels to the north. Because of existing zoning and environmental constraints on these parcels, future discretionary development is unlikely to occur north of the proposed project. The requirement to create an additional access or looped road would therefore be burdensome on this proposed project. Such a requirement also seems unnecessary given that traffic volumes are low and the applicant will be required to develop a Fire Safe Plan acceptable to the El Dorado County Fire Protection District and DOT prior to final map recordation. Further, the applicant has reduced the future development potential of the property and previously received approval of a General Plan amendment and rezone of approximately 10 acres of the project from a General Plan Land Use Designation of Commercial (C) to Rural Residential (RR) and a Zone District of Commercial (C) to Estate Residential, Ten Acre (RE-10).

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

As approved and conditioned, on-site and off-site access improvements would be consistent with applicable DISM and Fire Safe Regulations. In addition, all existing and proposed structures, driveways and access ways would be required to comply with the approved Fire Safe Plan. Accordingly, the granting of the waiver would not be injurious to adjacent properties or detrimental to the health, safety, convenience and welfare of the public.

- 3.1.4 *The waiver would not have the effect of nullifying the objectives of this article or any other law or ordinance applicable to the subdivision.*

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 the County Code or any of the other applicable ordinances discussed within the staff report.

Conditions of Approval

1. The project, as approved, consists of the following:

P07-0025 Project Description: ~~This General Plan land use designation amendment, rezone, and tentative parcel map are based upon and limited to compliance with the project description, the Planning Commission hearing exhibit Marked Exhibits A-K (General Plan amendment/rezone/tentative parcel map) dated May 22, 2008, 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 will constitute a violation of permit approval.~~

Approval of this project allows the following: ~~amendment to the General Plan land use designation from Rural Residential, Important Biological Corridor (RR-IBC) and Commercial Platted Lands (C-PL) to Rural Residential (RR) on the 129.42-acre lot referenced as Assessor's Parcel Number 104-100-67; a rezone to change zoning designation from RE-10 (Estate Residential, Ten Acre), RE-5 (Estate Residential, Five Acre), C (Commercial) and AE (Exclusive Agricultural) to RE-10 (Estate Residential, Ten Acre) and~~ A tentative parcel map to subdivide an existing 129.43-acre parcel into four parcels ranging in size from 20.00 to 47.22-acres. Future development (structural improvements, grading, utilities, paving, etc) will be limited to building envelopes designated on Exhibit G. Building envelopes are designated on areas of less than 30% slope, outside setback areas for water courses and water bodies, and outside setbacks required by the RE-10 zone district. Access for Parcel 2 will be provided from Rattlesnake Bar Road. Access for Parcels 1, 3, and 4 will be provided by Burkett Lane. Burkett Lane will be improved to Fire Department and Department of Transportation standards.

P07-0025-R Project Description: Request to revise approved Tentative Parcel Map P07-0025 to: (1) amend Conditions of Approval Nos. 1, 16, 25 and 47, regarding approval of the project Fire Safe Plan and (2) reaffirm approval of a design waiver allowing for creation of a 5,280 foot dead-end road.

2. All site improvements shall conform to Exhibits E-G.

Environmental Review (Mitigation Measures)

3. **MM Bio-1:** All grading, improvement, and building plans shall state: "It is the applicant and contractor's responsibility to comply with all applicable state and federal laws and regulations including the Federal and State Endangered Species Acts and the Clean Water act for all on-site impacts. The County Grading Permit does not authorize Contractor to conduct activities not permitted by applicable State and Federal agencies in areas subject to State and Federal jurisdiction."

Timing/Implementation: Prior to issuance of grading and building permits

Enforcement/Monitoring: El Dorado County Planning

4. **MM Bio-2:** In order to avoid impacts to sensitive habitat for State- and/or Federally-listed species, species of concern; impacts due to erosion and sedimentation, and impacts drainages, watercourses, and water bodies, building/development envelopes shall be designated consistent with Exhibit G, dated April 21, 2008. No development or earth disturbance shall occur outside of these areas. Construction equipment operation shall be confined to the approved development envelopes. Prior to final map recordation, a Notice

to Property Owner (NTPO) stating this limitation and including a figure depicting the development envelope location shall be recorded with the County Clerk-Recorder. The development envelope shall be shown on all plans submitted for land use and building permits. Development envelope boundaries shall be staked in the field.

Timing/Implementation: Prior to issuance of final map recordation
Enforcement/Monitoring: El Dorado County Planning

5. **MM Bio-3:** Any oak trees removed from the site shall be mitigated as specified in the Interim Interpretive Guidelines for El Dorado County as adopted by the County on November 9, 2006. Mitigation for loss of tree canopy shall be implemented to reduce impacts from oak tree loss. Fulfillment of any one of the following options will reduce impacts to a less than significant level:
 - a. For tree replacement under Policy 7.4.4.4 of the General Plan, oak trees shall be replanted at a rate of 200 tree saplings per acre, or 600 acorns per acre, whether on-site or off-site. A tree planting and preservation plan is required prior to issuance of a grading permit. If the applicant chooses to replace removed trees off-site, an easement for off-site replacement must be obtained prior to the recordation of the tentative map. A letter from the certified project arborist or qualified biologist verifying the replacement of trees and a contract for intensive to moderate maintenance and monitoring shall be required for a minimum of 15 years after planting. The survival rate shall be 90 percent. Any trees that do not survive during this period of time shall be replaced by the property owner. The arborist or biologist contract, planting and maintenance plan, and all compliance documents necessary to meet the Oak Woodlands Interim Interpretive Guidelines shall be provided to Planning Services prior to issuance of a grading permit.
 - b. Payment of all fees required under Option B of General Plan Policy 7.4.4.4 to the county's Integrated Natural Resources Management Plan (INRMP). Payment of fees shall be at a migration ratio of 2:1 and based on all impacted oak woodland acreage. Payment of fees and successful completion of this alternative is dependent upon county adoption and implementation of the INRMP by the County and approval of Planning Services.

Timing/Implementation: Prior to issuance of grading and building permits
Enforcement/Monitoring: El Dorado County Planning

6. **MM Bio-4:** If option a. above is utilized, the applicant shall provide an update letter to be prepared by a qualified professional about the health and progress of the re-planted oak saplings and/or oak acorns for this project.

Timing/Implementation: Prior to issuance of occupancy permits
Enforcement/Monitoring: El Dorado County Planning

7. **MM Bio-5:** If option a. above is utilized, Covenants, Conditions, and Restrictions (CC&Rs) shall be established and recorded for this project that would, in part, ensure the survival of replanted oaks by requiring that each property owner share equally in the responsibility in the long term monitoring and maintenance of replanted oaks. The CC&Rs shall require that the property owners coordinate a one year, three years, five years, and ten year monitoring survey to be prepared by a qualified professional for both oak and saplings that would be replaced, as well as a similar fifteen year survey update for acorns. In the event that the replanted saplings or acorns not survive, they shall be replaced (at the sole and equally shared cost of each property owner) based on County adopted policies and standards, and based on the input of a qualified professional.

Timing/Implementation: Prior to issuance of grading and building permits
Enforcement/Monitoring: El Dorado County Planning

8. **MM Bio-6:** A conservation easement, consistent with Exhibit G contained herein, shall be designated on the parcel map for the sole purpose of providing an area for the replacement of oak trees disturbed or removed consistent with Option A of General Plan Policy 7.4.4.4. This conservation easement shall be recorded prior to filing of the parcel map. The conservation easement may be modified subject to review and approval by Planning Services with appropriate documentation from the property owner in the form of an oak tree canopy report and tree replacement and preservation plan prepared by a certified project arborist or qualified biologist. The plan shall evaluate potential impacts of future development activities within designated building envelopes. Modification of the conservation easement will require formal application to El Dorado County Planning Services for a map revision.

Timing/Implementation: Prior to filing of the parcel map
Enforcement/Monitoring: El Dorado County Planning

9. **MM Bio-7:** Prior to issuance of grading permits, the property owner shall select one building envelope on Parcel 3 upon which development activities are to occur. Grading permits and building permits shall specify the proposed envelope on an exhibit to be provided to the contractor designated to perform the grading and construction activities.

Timing/Implementation: Prior to issuance of grading and building permits
Enforcement/Monitoring: El Dorado County Planning

10. **MM Bio-8:** Fencing shall be limited to areas around barns and or homes for the purposes of protecting livestock or landscaping. The property owner shall submit a fencing plan to El Dorado County Planning with the submission of building permits for review and approval.

Timing/Implementation: Prior to issuance of building permits
Enforcement/Monitoring: El Dorado County Planning

Planning Services

11. 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.
12. The applicant shall be required to pay Park-in-Lieu fee of \$150.00 payable to El Dorado County, pursuant to El Dorado County Subdivision Ordinance Chapter 16.12.090. A receipt showing compliance with this condition shall be submitted by the applicant to the Planning Services prior to filing of the final parcel map.
13. The applicant shall make the actual and full payment of planning processing fees for the general plan amendment, rezone and the tentative parcel map application prior to filing the parcel map.
14. 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, as provided in Section 66474.9(b) of the California Government Code.

The applicant shall defend, indemnify, and hold harmless El Dorado County and its agents, officers, and employees from any claim, action, or proceeding against El Dorado County or its agents, officers, or employees to attack, set aside, void, or annul an approval of El Dorado County concerning a parcel map, which action is brought within the time period provided for in Section 66499.37.

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

El Dorado County Department of Transportation

Project Specific DOT Conditions

15. **On-site Access Improvements:** The applicant shall widen the on-site portion of Burkett Lane to a 20-ft wide roadway with 10-ft shoulders on each side consistent with the provisions of the El Dorado County Design and Improvement Standards Manual (DISM), Standard Plan, 101C *and* *DISM II.3.A.12.a*, in effect at the time improvement plans are submitted for review and approval. The improvements shall be completed to the satisfaction of the Department of Transportation or the applicant shall obtain an approved improvement agreement with security, prior to the filing of the parcel map.

16. **Off-site Access Improvements:** The applicant shall construct and /or verify that the off-site portion of Burkett Lane from the project boundary to Rattlesnake Bar Road, meets the requirements of El Dorado County Standard Plan *101C, and DISM II.3.A.12.a*, a 20-foot roadway width with 10-foot wide shoulders on each side of the roadway, as required in Section 3.A.2.c.ii, of the DISM, and Fire Safe Regulations. The applicant shall provide an exhibit to the DOT, Planning, and the Fire Agency that shows that Burkett Lane complies with the DISM and Fire Safe Regulations, ~~as well as a secondary access road or acceptable alternative.~~ No secondary access road shall be required for this project. The improvements shall be completed to the satisfaction of the Department of Transportation or the applicant shall obtain an approved improvement agreement with security, prior to the filing of the parcel map.
17. **Off-site Access Easements:** The applicant shall provide proof of access to the project site from a State or County maintained road. Said proof shall be provided by and through a “Parcel Map Guarantee” which shall be submitted to the County Surveyor’s Office with the first map check for the parcel map.
18. The applicant shall grant a 60-foot road and public utility easement (R & PUE) where Rattlesnake Bar Road is located within the property boundaries prior to the filing of the parcel map. This offer will be accepted by the County.
19. A vehicular restriction must be placed on the existing road located within the existing 50-foot road easement (PM 15-86) for Parcels 1, 2, and 3 prior to the filing of the parcel map.
20. The applicant shall grant a 60-foot road and public utility easement (R & PUE) where Burkett Lane is located within the property boundaries prior to the filing of the parcel map. This offer will be rejected by the County.
21. Per the El Dorado County Design and Improvement Standards Manual (DISM) Section 3.B.2, the roadway shown at approximately STA 21+00 Burkett Lane shall be reconstructed so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at less than 70 degrees. The improvement plans shall provide bearings on the centerline of proposed roadway to show said condition is met.
22. The applicant shall construct the roadway encroachment of Burkett Lane onto Rattlesnake Bar Road to the provisions of DISM Standard Plan 103D and shall be paved per recommendations of geotechnical engineer. The improvements shall be substantially completed to the approval of the Department of Transportation or the applicant shall obtain an approved improvement agreement with security, prior to the filing of the parcel map.
23. The applicant shall provide for unobstructed visibility at the one-lane bridges (3 locations on Rattlesnake Bar Road) and provide/verify turnouts with a minimum 25-foot taper on each end. The improvements shall be substantially completed to the approval of the

Department of Transportation or the applicant shall obtain an approval of the Department of Transportation or the applicant shall obtain an approved improvement agreement with security, prior to the filing of the parcel map.

24. The applicant shall form and/or verify the existence of an entity, to the satisfaction of DOT, for maintenance of all on-site roads and/or drainage facilities not maintained by the County, prior to the filing of the parcel map.
25. ~~Per Pursuant to the Design and Improvement Standards Manual [Section 3 A) 9) & 12)]~~ the applicant shall be required to ~~provide a secondary access to this site or provide evidence of a fire safe plan in accordance to the corresponding fire department, prior to the filing of the parcel map, or in lieu of a secondary access,~~ submit a Fire Safe Plan prepared by a Licensed Professional Forester to the County. The Board of Supervisors Department of Transportation shall have the authority to grant approval of approve said Fire Safe Plan. The Fire Safe Plan, shall be subject to the satisfaction of all applicable DISM and Fire Safe Regulations for improvements related to Burkett Lane. Required improvements for Burkett Lane shall be completed to the satisfaction of the Department of Transportation or the applicant shall obtain an approved improvement agreement with security, prior to the filing of the parcel map.
26. As specified in the Conditions of Approval, the subdivider is required to perform off-site improvements. If it is determined that the subdivider does not have or cannot secure sufficient title or interest of such lands where said off-site improvements are required, the County may, at the subdivider's expense and within 120 days of filing the Final Map, acquire by negotiation or commence proceedings to acquire an interest in the land which will permit the improvements to be made, including proceedings for immediate possession of the property. In such cases, prior to filing of any final map or parcel map, the subdivider shall submit the following to the Department of Transportation Right of Way Unit, and enter into an agreement pursuant to *Government Code Section 66462.5* and provide acceptable security to complete the offsite improvements, including costs of acquiring real property interest to complete the required improvements, construction surveying, construction management and a twenty-percent (20%) contingency:
 - a. A legal description and plat, of the land necessary to be acquired to complete the offsite improvements, prepared by a civil engineer or land surveyor.
 - b. Approved improvement plans and specifications of the required off-site improvements, prepared by a civil engineer.
 - c. An appraisal prepared by a certified appraiser of the cost of land necessary to complete the off-site improvements

In addition to the agreement the subdivider shall provide a cash deposit, letter of credit, or other acceptable surety in an amount sufficient to pay such costs including legal costs subject to the approval of county counsel.

27. The applicant shall adhere to all DOT standard conditions as specified in Attachment A.

Standard DOT Conditions

28. The developer shall enter into an Improvement Agreement with the County and provide security to guarantee the performance of the Improvement Agreement as set forth within the County of El Dorado Subdivision Ordinance, prior to filing of the parcel map.
29. If site improvements are to be made, the applicant shall submit a site improvement/grading plan prepared by a professional civil engineer to the Department of Transportation for review and approval. The plan shall be in conformance with the County of El Dorado “Design and Improvement Standards Manual,” the “Grading, Erosion, and Sediment Control Ordinance”, the “Drainage Manual”, the “Off-Street Parking and Loading Ordinance”, and the State of California Handicapped Accessibility Standards.
30. The applicant shall provide a soils report at time of improvement plan or grading permit application addressing , at a minimum, grading practices, compaction, slope stability of existing and proposed cuts and fills, erosion potential, ground water, pavement section based on TI and R values, and recommended design criteria for any retaining walls.
31. Any import, or export to be deposited within El Dorado County, shall require an additional grading permit for that offsite grading.
32. The applicant shall provide a drainage report at the time of improvement plans or grading permit application, consistent with the Drainage Manual and the Storm Water Management Plan, which addresses storm water runoff increase, impacts to downstream facilities and properties, and identification of appropriate storm water quality management practices to the satisfaction of the Department of Transportation.
33. Upon completion of the improvements required, and prior to acceptance of the improvements by the County, the developer will provide a CD to the DOT with the approved drainage and geotechnical reports in PDF format and the approved record drawings in TIF format.
34. The applicant shall pay the traffic impact fees in effect at the time a building permit is deemed complete.
35. All new or reconstructed drainage inlets shall have a storm water quality message stamped into the concrete, conforming to Sacramento County Standard Drawing 11-10. All stamps shall be approved by the El Dorado County inspector prior to being used.
36. Grading plans shall incorporate appropriate erosion control measures as provided in the El Dorado County Grading Ordinance and El Dorado County Storm Water Management Plan. Appropriate runoff controls such as berms, storm gates, detention basins, overflow

collection areas, filtration systems, and sediment traps shall be implemented to control siltation, and potential discharge of pollutants into drainages.

37. The applicant shall submit a soils and geologic hazards report (meeting the requirement for such reports provided in the El Dorado County Grading Ordinance) to, and receive approval from the El Dorado County Department of Transportation. Grading and design plans shall incorporate the findings of detailed geologic and geotechnical investigations.
38. Grading plans shall be prepared and submitted to the El Dorado County Resource Conservation District (RCD) and the Department of Transportation (DOT). The RCD shall review and make appropriate recommendations to the County. Upon receipt of the review report by the RCD, the DOT shall consider the imposition of appropriate conditions for reducing or mitigating erosion and sedimentation from the project. The County shall issue no building permits until the DOT approves the final grading and erosion control plans and the grading is completed.
39. The timing and construction and method of revegetation shall be coordinated with the El Dorado Resource Conservation District (RCD). If grading activities are not completed by September, the developer shall implement a temporary grading and erosion control plan. Such temporary plans shall be submitted to the RCD for review and recommendation to the DOT. The DOT shall approve or conditionally approve such plans and cause the developer to implement said plan on or before October 15.
40. Upon completion of the improvements required, and prior to acceptance of the improvements by the County, the developer will provide a CD to DOT with the drainage report, structural wall calculations, and geotechnical reports in PDF format and record drawings in TIF format.
41. Construction activities shall be conducted in accordance with the County noise regulation or limited to the following hours and days: 7:00 a.m. and 5:00 p.m. on any weekday; 8:00 a.m. and 5:00 p.m. on Saturdays; and prohibited on Sundays and holidays.
42. For projects that disturb more than one acres of land area (43,560 square feet), the Developer shall file a "Notice of Intent" (NOI) to comply with the Statewide General NPDES Permit for storm water discharges associated with construction activity with the State Water Resources Control Board (SWRCB). The condition is mandated by State of California. A filing form, a filing fee, a location map, and a Storm Water Pollution Prevention Plan (SWPPP) are required for this filing. A copy of the Application shall be submitted to the SWRCB, with a duplicate copy submitted to the County, prior to building permit issuance, and by state law must be done prior to construction.

El Dorado County Fire Protection District

43. Submit a review fee of \$120.00.

44. Fire flow for this project is 1,000 gpm @ 20 psi for two hours with additional fire hydrants.
45. In place of requirements for hydrants and fire flow the applicant may enter into a deed restriction for parcels 1, 2, and 4 for a “Fire District approved NFPA 13D Fire Sprinkler System with 3,000 gallons of water storage for all new structures.”
46. The existing home on Parcel 3 is required to have a 3,000 gallon storage tank that is Fire District approved and within 500 feet of the home.
47. A deed notice of restriction shall be filed with the final map notifying owners and future owners of the restrictions contained in the final Fire Safe Plan and that the owners will have ongoing obligations to comply with the requirements contained in the Fire Safe Plan. for an El Dorado County Fire District and a California Department of Forestry (CDF) approved Fire Safe Plan is required for this TPM. a final Fire Safe Plan is required for this Tentative Parcel Map. The Fire Safe Plan shall be reviewed and approved by El Dorado County Fire Protection District. Said Fire Safe Plan shall be submitted to the County, and shall be subject to satisfaction of all applicable DISM. and Fire Safe Regulations for Burkett Lane. The DOT shall review and approve the final Fire Safe Plan prior to the filing of the parcel map.
48. Existing non-conforming access roads serving this TPM will meet at a minimum Fire Safe Standards for width, surface, grade, radius, turnarounds, and turnouts, one-way and dead-end roads.
49. El Dorado County DOT standards may be more stringent and will supercede these requirements.
50. All Fire Protection District Requirements shall be completed prior to filing of the parcel map.

El Dorado County Office of County Surveyor

51. All survey monuments must be set prior to filing the parcel map.
52. Prior to filing the Parcel Map, a letter will be required from all agencies that have placed conditions on the map. The letter will state that “all conditions placed on the map by (that agency) have been satisfied.” The letter is to be sent to the County Surveyor and copied to the Consultant and the Applicant.