

FROM THE MINUTES OF MAY 8, 2008

7. GENERAL PLAN AMENDMENTS (Public Hearing)

b. **A08-0003/P07-0022** submitted by JEFF and JUDY MALM (Agent: Nicole Young) to change the land use designation from Rural Residential (RR) to Low Density Residential (LDR) and tentative parcel map creating four parcels ranging in size from 5.0 to 5.5 acres. The property, identified by Assessor's Parcel Number 092-440-07, consisting of 20.5 acres, is located on the east side of Mica Street, approximately 750 feet north of the intersection with Crystal Boulevard, in the **El Dorado area**, Supervisorial District II. (Mitigated negative declaration prepared)*

Tom Dougherty recommended approval to the Board of Supervisors. He suggested several modifications to the proposed conditions.

Commissioner Machado asked why this is recommended for approval when the Agricultural Commission recommended denial. Pierre Rivas explained the surrounding uses are residential, and there are no agricultural uses. Therefore, there is no conflict with the intent of the General Plan to protect agricultural uses. Paula Frantz said although some of the surrounding properties are zoned RA-20, they are substandard in size. They are not agriculturally sized parcels and not larger than what the applicant is requesting.

Commissioner Mathews asked for clarification on the fire access. Using the exhibits, Mr. Dougherty explained. The fire district has worked with the residents on Mica for many years and is aware of the situation in the area. Mr. Rivas stated this is a benefit to the area.

Commissioner Machado asked if the fire marshal is comfortable with the hydrant. Did they discuss sprinklers? Mr. Dougherty referred the Commission to Condition 11.a.

Jeff Malm said after talking to Chief Peterson from the fire district, they are offering to improve Mica Street. He explained the emergency access which that Caltrans will accept.

Mark Regelbrugge, resident in the area, said the road across the adjacent parcel is his driveway. They have no problem with the parcel split. They find Conditions 6, 12e, 59, 39, and 41 objectionable. This is a chance to solve a problem that has been going on for 20 years. He is willing go work with the residents in the area to solve the problem, but he does not feel their interests are being preserved with this application. Mr. Rivas referred to the conditions and explained what would be required of the applicant.

Mr. Regelbrugge indicated the location of his parcel on Exhibit H. Their concern is the access. The second concern is the amount of money they have put into improving the driveway. The conditions require them to give up some of their land. They do not feel it is equitable.

Commissioner Machado asked how Mr. Regelbrugge accesses his property. Mr. Regelbrugge replied Mica Street. There is one residence that currently uses their driveway, which is compacted gravel. Mr. Rivas explained staff's recommendation for removal of the gate on the driveway which is actually an easement. Ms. Frantz explained the condemnation process for the access. Once the condition for access is placed on the map you cannot prevent the map from becoming final. If there are off-site improvements and access cannot be obtained, the County must waive the condition or condemnation would occur.

Commissioner Mac Cready said the Commission should know if the applicant has an easement. Chair Tolhurst would be in favor of continuing until there is more information.

Mr. Regelbrugge said the solution would be to relocate the Mica Street entrance that Caltrans has required be abandoned and that it be relocated at his driveway and be adequately improved.

Eileen Crawford, Department of Transportation, referred to Condition 16 and explained that the improvements required under Standard Plan 101C would allow chip and seal. Mr. Rivas said the road is 18 feet wide with one foot shoulders on both sides. Mrs. Crawford said there is a 50-foot wide existing road right of way. She gave the Commission a copy of the Record of Survey for the driveway/road. The fire district is always in favor in as few gates as possible. The conditions are not specific as to where the gate is to be located. Mr. Rivas said Planning staff does not care about the location of the gate but that there only be one gate.

Mr. Malm explained the concern of the fire district. Mr. Malm was the one that was going to pave the road. If the neighbor wants a gravel road, he would be willing to do that.

Chair Tolhurst said the record of survey shows it as a right of way. That is public. Can the County put a gate on a public right of way? Mr. Rivas said staff requires a special use for such a gate.

Rich Briener, County Surveyor's Office, said it may not be a public right of way. It was never accepted by the County.

There was no one else wishing to give input.

Commissioner Mathews asked if language could be added that if this goes to condemnation that the applicant would have to pay for such. Mr. Rivas referred the Commission to Conditions 34 and 35. Commissioner Mac Cready asked who decides to seek condemnation. Ms. Frantz replied the Board of Supervisors decides on the condemnation.

The Commission briefly discussed continuing the applications until the necessary information on the easement is submitted. Mr. Rivas referred to Condition 36. Once the required information is submitted the applications would be scheduled again for hearing.

MOTION: COMMISSIONER MAC CREADY, SECONDED BY COMMISSIONER TOLHURST AND FAILING BY THE FOLLOWING VOTE: AYES – COMMISSIONERS MAC CREADY AND TOLHURST; NOES – COMMISSIONERS KNIGHT, MACHADO,

AND MATHEWS, IT WAS MOVED TO CONTINUE THESE APPLICATIONS OFF CALENDAR UNTIL THERE IS A DETERMINATION ON THE RIGHT OF EASEMENT TO THE PROPERTY.

MOTION: COMMISSIONER MATHEWS, SECONDED BY COMMISSIONER MACHADO AND CARRIED BY THE FOLLOWING VOTE: AYES – COMMISSIONERS KNIGHT, MAC CREADY, MACHADO, AND MATHEWS; NOES – COMMISSIONER TOLHURST, IT WAS MOVED TO FORWARD A RECOMMENDATION THAT THE BOARD OF SUPERVISORS ADOPT THE MITIGATED NEGATIVE DECLARATION, AS PREPARED; APPROVE A08-0003 CHANGING THE LAND USE DESIGNATION FOR ASSESSOR'S PARCEL NUMBER 092-440-07 FROM RURAL RESIDENTIAL (RR) TO LOW DENSITY RESIDENTIAL (LDR); AND APPROVE P07-0022, BASED ON THE FINDINGS PROPOSED BY STAFF, SUBJECT TO THE CONDITIONS AS MODIFIED, WITH THE ADDITION THAT THE ONE GATE LOCATION BE SUBJECT TO APPROVAL OF PLANNING SERVICES AND THE FIRE DISTRICT.