



EL DORADO COUNTY

PLANNING & BUILDING DEPARTMENT

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To: Planning Commission Agenda of: August 24, 2023
From: Evan Mattes, Senior Planner
Date: August 17, 2023
Subject: ADM-A23-0003/Appeal Filed of Staff Level Planning Director Approval of Administrative Permit, ADM23-0014 (Cameron Park CSD Pickleball Courts)

Recommendation

Based on the analysis of Administrative Permit, ADM23-0014, staff recommends the Planning Commission deny the appeal and uphold the approval of Administrative Permit ADM23-0014, based on the Findings and subject to the Conditions of Approval as approved by the Planning Director.

Alternative Action

Grant the appeal by Dave and Liz Gates (ADM-A23-0003), deny Administrative Permit, ADM23-00014, and instruct staff to return with Findings for Denial.

Background

An Administrative Permit, ADM23-0014, was submitted on March 31, 2023 for a request to allow for four permanent pickleball courts, two multiuse pickle ball/tennis courts and one dedicated tennis court.

The project site, identified by Assessor's Parcel Number 083-020-024, is located within Cameron Park Lake, a public park located operated by the Cameron Park Community Services District (CSD). The tennis/pickleball courts are located at the northern portion of the park approximately 10 feet from the northern property line. The site has been used for tennis courts since at least the mid 1970's and did not require any permits when constructed. Originally consisting of four tennis courts, the CSD began converting tennis courts to pickle ball courts in 2015. Currently there are four dedicated pickleball courts, two multiuse pickleball/tennis courts, and one dedicated tennis court. The property is zoned Recreational Facilities, High (RF-H), with a General Plan Land Use Designation of Public Facilities (PF).

Currently the Zoning Ordinance requires the approval of an Administrative Permit for the establishment of tennis courts. Due to the time of which the tennis courts were initially established, the original tennis courts are legal nonconforming. The conversion of existing courts to accommodate pickleball is considered to be an intensification of the original legal nonconforming use and would require either an Administrative Permit, to establish the courts as a legal conforming use, or a Conditional Use Permit to intensify a legal nonconforming use. The project

applicant chose to pursue an Administrative Permit. With the approval of this Administrative Permit the courts would no longer be legal nonconforming and would be legal conforming instead. Should this Administrative Permit be denied, the project applicant could pursue the alternative Conditional Use Permit for intensification.

Administrative Permits are a staff level review with Planning Director approval and was approved July 24, 2023. Administrative Permits are a ministerial project and are statutorily exempt from CEQA per Section 15268 of the CEQA Guidelines. As a ministerial project only the adopted standards may be applied. Conditions of Approval, which are not adopted standards cannot be applied to the project.

Appeal Filed

On July 25, 2023, Appeal ADM-A23-0003 was submitted in a timely manner by Dave and Liz Gates appealing the Planning Director's approval of Administrative Permit, ADM23-0014, Cameron Park CSD Pickleball Courts (enclosed). As stated in their letter, the appellant is specifically concerned about the potential noise impacts and associated quality of life issues.

Staff Response

Below is a summary of staff's response to the concerns stated in the submitted appeal.

CEQA Exemption

The appellant states that while Administrative Permits are considered to be ministerial, the noise exemption is classified as a categorical exemption and therefore the noise exemption does not apply to ministerial projects.

The appellant is confusing the Zoning Ordinance and CEQA requirements. Pursuant to section 130.52.010 of the El Dorado County Zoning Ordinance, the issuance of an Administrative Permit shall be a ministerial project pursuant to CEQA. Since Administrative Permits are ministerial projects, they are statutorily exempt from CEQA per Section 15268 of the CEQA Guidelines. The appellant erroneously refers to Section 130.37.020.A as a Categorical Exemption per CEQA. Section 130.37.020.A is the section of the Zoning Ordinance that exempts activities conducted in public parks from the noise standards of the Zoning Ordinance.

Use Determination:

Pursuant to Section 130.020.030.A.3, where uses are not listed within the Zoning Ordinance the Planning Director may determine that the unlisted use is similar and compatible with a listed use. It was determined that while a pickleball court is a use that is not explicitly listed in the Zoning Ordinance that it was similar and compatible with a tennis court. Appellant states that pickleball courts and tennis courts are substantially dissimilar and incompatible due to noise generated from and the size of the game of pickleball versus noise generated from tennis. Pursuant to Section 130.37.020.A activities conducted in public parks are exempt from the noise standards of the zoning ordinance. The subject parcel is zoned RFH, which is intended to regulate and promote recreational uses and activities with high concentrations of people or activities of a more urban nature. As a recreational use the proposed pickleball courts would be consistent and compatible with the RFH zone and the other uses allowed within the RFH zone. The current courts could

accommodate a maximum of 36 people. Under the previous court arrangement a total of 16 people could play at a time. This is a 20-player increase. Your Commission will be able to hear public testimony regarding this compatibility finding and weigh the testimony received.

Legal Nonconforming Status:

The appellant asserts that the original tennis courts were not legal nonconforming as no permit history was found and that the original tennis courts can never be considered legal nonconforming as the current RFH zone has a 50-foot setback. At the time of establishment, a tennis court within a public park would not have required an administrative permit. The Building Department did not and continues to not require building permits for flat work, such as tennis courts. Due to the requirements of the time of establishment the original tennis courts are considered legal nonconforming. Unless otherwise specified within the Zoning Ordinance, the zoning standard setbacks are applied as a structural setback and would not be applied to flatwork. Furthermore, legal nonconforming structures that do not comply with current setbacks may be expanded so long as the expansion does not encroach further into the required setback. While the courts are not a structure and would not have structural setbacks, there would be no expansion closer to the property line. However, when read in conjunction with other sections of the Zoning Ordinance, there is a potential statutory ambiguity. Section 130.30.210 requires that administrative permits for outdoor recreational facilities are reviewed for impacts to surrounding areas. Again, your Commission is positioned to receive public testimony regarding impacts of the recreational use on the neighboring area and whether the Administrative Permit meets the requirements of the Zoning Ordinance.

The Administrative Permit is required due to the increased number of overall courts. With the issuance of the Administrative Permit the courts would be conforming with the current Zoning Ordinance and would no longer be legal nonconforming. The findings for an expansion of a legal nonconforming use are not applicable to this Administrative Permit.

Staff Conclusion

Based on the above staff analysis of the appeal request, staff recommends the Planning Commission deny the appeal and uphold the approval of Administrative Permit ADM23-0014, based on the Findings as approved by the Planning Director. However, if your Commission receives testimony and reaches a different conclusion, staff is prepared to provide guidance on alternative actions.

Enclosures (45 pages total)

ADM-A23-0003 Appeal Form
ADM23-0014 Approval Letter
ADM23-0014 Application Packet
ADM23-0014 Aerial Maps