

**FROM THE PLANNING COMMISSION MINUTES OF JANUARY 26, 2012**

**10. REZONE/PLANNED DEVELOPMENT/PARCEL MAP**

**Z10-0009/PD10-0005/P10-0012/Creekside Plaza** submitted by GRADO EQUITIES VII, LLC to request the following: (1) Rezone from One-Acre Residential (R1A) to General Commercial-Planned Development (CG-PD) and Open Space-Planned Development (OS-PD); (2) Development Plan to construct three commercial buildings totaling 30,572 square feet maximum; (3) Tentative Parcel Map to create three commercial parcels and one open space parcel; (4) Finding of Consistency with General Plan Policy 7.1.2.1 to allow development and disturbance on slopes of 30 percent or greater gradient; (5) Finding of Consistency with General Plan Policy 7.3.3.4 to allow a reduction of the wetland setback from 50 feet to zero, with portions of the development area within the required setback; and (6) Finding of General Plan Consistency for the General Vacation of Portions of the Forni Road Right-of-Way. The property, identified by Assessor's Parcel Numbers 327-211-14, 327-211-16, and 327-211-25, consisting of 4.1 acres, is located on the northwest corner of the intersection of Forni Road and Missouri Flat Road, in the Placerville area, Supervisorial District 3. *[Project Planner: Tom Dougherty] (Mitigated negative declaration prepared)\* [continued from 10/13/11 & 12/8/11 meetings; Re-noticed/re-circulated]*

Tom Dougherty summarized the project and made reference to two Staff Memos dated 1/25/12 with one recommending changes to the Mitigation Measures in the Initial Study/Environmental Checklist and the other recommending a revision to Condition #15 to address the Oak Canopy. Staff also read into the record proposed language revising Condition #8 to allow a merge to occur.

County Counsel Paula Frantz explained that this project was impacted at the last minute due to the recent Court ruling on the oak trees and that Option B was no longer available. As proposed, this project doesn't comply with the intention of Option A, but recognizing that it would not always be possible or a reasonable use of the property to completely comply with Option A, the Board had adopted the Interim Interpretive Guidelines which includes a Reasonable Use Determination. Although staff has tried to set that forward for the applicant by the submittal of the Staff Memo dated 1/25/12 recommending revisions to Condition #15, the process for the Reasonable Use Determination requires its own noticed public hearing and that has not yet occurred. In addition, staff still needs to determine that this approach would not change their analysis in the Mitigated Negative Declaration and the findings could still be made. County Counsel Frantz recommended that if the applicant wanted to include a Reasonable Use Determination, then the project would need to be continued to allow the proper noticing and also adequate time for staff to analyze the request and adjust the Staff Report.

Leonard Grado/applicant expressed frustration over the numerous delays in these proceedings and that the project should have already been through the hearing process. He inquired if he could request the Commission to deny the project as presented in order to move it forward to the Board of Supervisors as it was becoming an untenable situation.

County Counsel Frantz responded that legislative acts are not under the Permit Streamlining Act and that some of the delays that have occurred were a result of the applicant's choices. She stated that forwarding a recommendation of denial to the Board may not be the best process to handle this situation. She also stated that if the applicant could retain 90% of the oaks with Option A, then the Commission would have the option of recommending approval today.

Commissioner Pratt reminded the applicant that the Board does have the ability to return a project to the Commission for further review/action if they desire.

Craig Sandberg/applicant's agent inquired that since they may be able to conduct on-site mitigation and were under time constraints, would it be possible for the Commission to hear the project today and recommend approval to the Board, subject to getting a Reasonable Use Determination if they need it.

County Counsel Frantz explained that as proposed, the project does not comply and would require modifications to Condition #15. She said that the General Plan states that the oaks should be protected and the Courts ruled that the plan being implemented was not adequate and that the trees needed to be protected on-site. The other option would be to request a Reasonable Use Determination and additional analysis would be needed for that.

Commissioner Tolhurst reminded those in attendance that the oaks are not the only issue with this project.

Barry Anderson, applicant's Biologist, spoke on the types of trees located at the project site and requested that the words "tributary to" be added to the two references to Weber Creek on pages 4 and 5 of the Staff Report.

Significant discussion ensued between County Counsel and Mr. Sandberg on noticing requirements and staff analysis if a Reasonable Use Determination was requested today and they returned back to the February 9, 2012 meeting for action.

Commissioner Mathews cautioned that moving forward without following proper procedures could be potentially dangerous to the applicant.

County Counsel Frantz recommended hearing the item today to address the other issues with the project and for the Commission to hear the additional request added to the project from the last hearing.

Bobbie Lebeck/applicant's agent commented on the following Conditions:

- #8: Agreed with proposed revised language;
- #9: Clarified applicant's understanding of the Condition;
- #12.c: Requested pole light height be revised to 20 feet since the project sits below the street and this would be the same height approved for the projects across the street which sit above the street. Confirmed that the light poles would be lower than the building; and
- #29: Modify the last sentence on the building permit being finalized.

Bob Smart, Chair of the Diamond Springs-El Dorado CAC, stated that the public starts dropping out of the public hearing process when it becomes lengthy. He also spoke on the working relationship with all applicants and the public and felt bad on the number of delays this particular applicant has experienced. Mr. Smart also spoke on the bike trails and the traffic turn lanes.

Jason Harm, Principal of Herbert Green Middle School, made the following comments:

- Student safety is #1 concern;
- Having 10-11 year olds biking from Mallard Lane is a concern;
- Turn lane during peak school times will have a greater impacted than what is being identified; and
- Requested clarification on the frontage improvements by the school.

Commissioner Pratt commented that schools have historically not resolved the traffic impacts that they have in fact caused and that the issue is not new and schools need to be active/responsive to this issue. He stated that in this situation, it is a circulation issue that could be mitigated on-site by the school.

Sue Taylor felt that even after several public hearings on this project, many of the issues still have not been addressed. She reiterated her concerns that she had voiced at the past hearings.

Patricia Debler/resident submitted additional petition signatures and disagreed with the classification of the creek by describing the current conditions after the recent rainfall. In response to her request for clarification on the oak tree issue and the court ruling, County Counsel Frantz provided a brief explanation. Ms. Debler also stated that student safety was not property mitigated and that the applicant needs to take into consideration the number of signatures on the petition opposing the project.

*[Clerk's Note: Commissioner Rain left the meeting at 11:55am]*

Sharlene McCaslin made the following comments:

- Significant impacts to the environment (i.e., stream, riparian habitat);
- Potential blight may be caused by this project; and
- Would like to see project abandoned and use the land as a mitigation for another project or this project needs to have a full EIR done.

Bobbie Lebeck clarified public comments made on drainage concerns.

Marci Embree/applicant made the following comments:

- General Plan identifies this property as Commercial;
- This site is the last of the four corners on Missouri Flat Road; and
- Have spent 2 ½ years working with Fish and Game and the U.S. Army Corps and it is those agencies' decision on the issues with the wetlands, streams, etc.

Mr. Sandberg informed the Commission that after much discussion with the parties involved, they were now requesting the Commission to forward a recommendation of approval to the

Board, subject to compliance with Option A or forward a recommendation of denial. Due to business reasons, a 30-day continuance would cause a hardship to the project in regards to obtaining tenants.

Eileen Crawford/DOT distributed a Creekside Plaza Bus Turnout map and stated that DOT, the applicant, and El Dorado Transit Authority have agreed to have a 77 ft range that the bus stop could be placed within.

Commissioner Pratt commented that he has not heard that there is a great need for the proposed bus stop nor is it part of a Master Plan. He has made suitable suggestions for alternate locations to address the issue of requiring the public to cross two intersections. Commissioner Pratt felt that it was more logical to place the bus stop nearer to the trail and a corner and since the buses already travel on Golden Center Drive, it would be a safer bus stop location.

Mindy Jackson, Executive Director of El Dorado Transit Authority, stated that the route will have 10-20 stops per day and that the bus stop will be added to three existing routes. She also stated that they have researched placing a permanent bus stop on Golden Center Drive but there were always issues involved.

Commissioner Mathews inquired if this bus location was being considered because the applicant would be putting it in as a project condition and would Commissioner Pratt's alternate location require re-development of the area. Ms. Crawford responded that for the proposed location, the Right-of-Way can be utilized and would save money on design impacts.

Ms. Crawford and County Counsel Frantz discussed applicant's requested modification to Condition #29 and stated that the Drainage Zone of Benefit needed to be tied with the Grading Permit or Building Permits and couldn't be deferred to the final of the permits. After discussion with applicant's agents, staff agreed Condition #29 could be modified to add the words "or issuance of a building permit for building B or C."

Ms. Crawford made the following comments:

- Spoke on the El Dorado County Transportation Commission grants;
- There are no issues with the request of the Right-of-Way vacation; and
- Corner has already been built out and DOT will not be requiring it to be any bigger.

Commissioner Pratt made the following comments:

- Spoke on the architectural and visual elements and reiterated his previous requests on the type of siding (wide as possible) and rock (diverse from what existing buildings used) in order to provide a visual contrast to the surrounding structures; and
- Voiced concern on light leaving property site and discussed various shielding option with applicant's architect.

County Counsel Frantz read into the record proposed language for Conditions #1.c and #15, page 16 of the Initial Study/Environmental Checklist, and the addition of new Finding 1.2.a.

The Commission did request a footnote be added that the proposed bus stop location was being challenged by one of the Commissioners.

No further discussion was presented.

**Motion: Commissioner Tolhurst moved, seconded by Commissioner Pratt, and carried (4-0), to recommend the Board of Supervisors take the following actions: 1. Adopt the Mitigated Negative Declaration based on the Initial Study prepared by staff as modified; 2. Adopt the Mitigation Monitoring Program in accordance with CEQA Guidelines Section 15074(d) incorporating the Mitigation Measures in the Conditions of Approval as modified; 3. Approve Rezone Z10-0009 based on the Findings as modified; 4. Approve Planned Development PD10-0005, adopting the Development Plan as the official Development Plan, based on the Findings and subject to the Conditions of Approval as modified; 5. Approve Tentative Parcel Map P10-0012 based on the Findings and subject to the Conditions of Approval modified as follows: (a) Amend Condition #1 requiring Planning Commission review of Exhibits G-5, G-7, H-1, H-2, H-3, I-2, and J prior to the issuance of the first building permit; (b) Amend Condition #1.c to add language regarding requirements prior to the issuance of a second building permit; (c) Amend Condition #15 to add language on an oak tree survey preservation and replacement plan with reference to the Interim Interpretive Guidelines for Policy 7.4.4.4; (d) Amend page 16 of the Initial Study/Environmental Checklist referencing Condition #15; (e) Add new Finding 1.2.a to reflect changes made to the Initial Study/Environmental Checklist regarding Oak Tree Canopy; and (f) Add new finding and changes to the Initial Study/Environmental Checklist as identified in the Staff Memo dated 1/25/12 regarding Wetland and Riparian Habitat Mitigation Measures (with changes identified for Bio-3 and Bio-5 being reflected in Conditions #3, and #5); 6. Find the project consistent with General Plan Policy 7.1.2.1 to allow development and disturbance on slopes of 30 percent or greater gradient; 7. Find the project consistent with General Plan Policy 7.3.3.4 to allow a reduction of the wetland setback from 50 feet to zero, with a portion of the development area within the required setback; and 8. Find that the General Vacation of portions of the Forni Road Right-of-Way is consistent with the General Plan in accordance with Government Code 65402(a).**

**AYES: Mathews, Pratt, Tolhurst, Heflin**  
**NOES: None**  
**ABSENT: Rain**