



PLANNING AND BUILDING DEPARTMENT

PLANNING DIVISION

<https://www.edcgov.us/Government/Planning>

PLACERVILLE OFFICE:

2850 Fairlane Court, Placerville, CA 95667

BUILDING

(530) 621-5315 / (530) 622-1708 Fax

bldgdept@edcgov.us

PLANNING

(530) 621-5355 / (530) 642-0508 Fax

planning@edcgov.us

LAKE TAHOE OFFICE:

924 B Emerald Bay Rd

South Lake Tahoe, CA 96150

(530) 573-3330

(530) 542-9082 Fax

TO: Board of Supervisors Agenda of: February 25, 2020
FROM: Evan Mattes, Associate Planner Item No.: 19-1768
DATE: February 21, 2020
RE: TM16-1528/Z16-0002/PD16-0001/The Vineyards at El Dorado Hills

The Vineyards at El Dorado Hills project was originally heard by the Board of Supervisors on December 17, 2019. At the meeting, the Board identified the need for additional information related to water demand, use of on-site septic, notification for the Environmental Impact Report (EIR), and applicability of a private settlement agreement relating to the Diamante Estates project. This memo is intended to address these items pursuant to the Board's request.

Water Demand

The Project would be served by public water supplied by El Dorado Irrigation District (EID). The Draft Environmental Impact Report (Draft EIR) addressed the water demand associated with the Project, which includes 42 equivalent dwelling units (EDUs) for the residential uses and 9.18 EDUs for the vineyard for a total demand of 51.18 EDUs, as opposed to the 59 EDUs anticipated with the Diamante Estates annexation (LAFCO Staff Report-Request for Time Extensions Diamante Estate, June 22, 2016). EID reviewed and commented on the Draft EIR on August 3, 2018. EID's comments are addressed in the Final Environmental Impact Report (FEIR) at page 2.0-45. EID's comments did not identify any concerns regarding the water use projected for the Project. Therefore, no outstanding issues are anticipated with the water demand for the Project.

On-Site Septic

All proposed lots and facilities will be served by individual on-site septic system. A Septic Feasibility Study has been prepared for the Project and demonstrates that soils and conditions present at the project site are anticipated to be adequate to accommodate the proposed septic uses (Exhibit G of the Planning Commission Staff Report dated October 24, 2019). The 2017 Septic Feasibility Study included percolation tests for nine test pits, which were sited to reflect soil conditions across multiple lots. All test pits demonstrated adequate capacity. The minimum disposal area associated with each of the test pits ranged from 8,000 to 14,000 square feet, which are minimum areas that can be accommodated by the proposed one-acre minimum lot size. The 2017 Septic Feasibility Study, which has been reviewed and verified by the Environmental

Health Division of the Environmental Management Department for conformance with applicable standards, did not identify any constraints or concerns related to the ability of the project to accommodate septic and noted that that subsurface conditions and percolation characteristics across the site were anticipated to be consistent with those observed in the study. The 2017 Study recommended that prior to issuance of building permits, a lot-specific exploration should be performed for each residential lot not covered by the exploration and this requirement is required by Mitigation Measure 3.5-3a in the Draft EIR, which provides:

Prior to approval and recommendation of the Final Map, the project proponent shall demonstrate to the satisfaction of the County Environmental Health Department that the recommendations of the Septic Feasibility Study are implemented, including additional exploration to be conducted to demonstrate the feasibility of the on-site sewage disposal for each lot in the proposed project area. The project proponent shall demonstrate that the disposal area for each lot is consistent with the sizing requirements identified in the subsequent exploration and that each lot size is adequate to comply with the County's requirements, including setbacks, for an on-site septic system.

Prior to the issuance of a building permit the project proponent shall demonstrate to the satisfaction of the County Environment Health Department that the requirements of the County, including conformance with the County Code and the County's Design Standards for the Site Evaluation and Design of Sewage Disposal Systems are met.

It is noted that the 2017 Septic Feasibility Study was a revised version of the Septic Feasibility Study prepared in 2015 and included results from an additional three percolation test pits. The 2015 Study indicated that up to 20 percent of lots may fail; this conclusion was removed from the 2017 Study which included additional percolation testing and further demonstrated the capacity of the project to accommodate septic. At the time of submittal of the septic feasibility study was reviewed by Environmental Management Department (EMD) and deemed sufficient for processing. Since the original EMD review, El Dorado County adopted new standards for septic system feasibility studies, taking effect May 13, 2018. Current standards require a soils evaluation for each proposed parcel to verify adequate soil depth, to determine the soil percolation rate, and to identify and adequately sized sewage dispersal area and Mitigation Measure 3.5.3a requires the applicant to demonstrate compliance with those standards for each lot. Some of the proposed parcels may not be suitable for development based on current standards, to be evaluated prior to issuance of building permits. Parcels that do not have suitable soils may be able to mitigate the condition by obtaining an easement on a neighboring parcel, lot line adjustments, or be combining two adjacent parcels into a single parcel, if EMD determines that mitigation would comply with EMD standards. In addition to the initial consultation distribution, the project was distributed to EMD during the Draft EIR and FEIR processes, with no additional comments received.

Outreach and Noticing

Multiple noticed opportunities were provided for community input regarding the Project. The County published the Notice of Preparation (NOP) of the Draft EIR for the Project on October 11, 2017. The NOP was mailed to property owners within a 1-mile radius of the Project site, as

required under section 5.2(F) of the County of El Dorado Environmental Manual for Implementation of the California Environmental Quality Act. The NOP included a detailed description of the project and invited interested entities and the public to comment on the Project during a 30-day public comment period. On October 26, 2017, County Planning staff held a scoping meeting to present the Project to the community and invited interested agencies and the public to comment on the scope of the Draft EIR.

On February 15, 2018, Project applicant held an informational workshop with the Planning Commission to introduce the Planning Commission to the Project. The Project applicant presented the Project to the Planning Commission and was available to answer questions regarding proposed characteristics of the Project.

The Notice of Availability of the Draft EIR was published in November 2019. The Notice of Availability was mailed to property owners within a 1-mile radius of the Project site, consistent with the County Manual for Implementation of CEQA. The Notice of Availability provided a description of the proposed Project and a summary of significant environmental effects that may result from project implementation. The Draft EIR provided a detailed description of the proposed Project, analyzed potential environmental impacts that could result from Project implementation, identified mitigation to reduce potential environmental impacts to less than significant where feasible, and discussed alternatives to the proposed Project. The public comment period for the Draft EIR began on November 7, 2018 and originally ended on January 7, 2019. In response to requests to extend the comment period, the Applicant coordinated with the County to extend the public review period to 90 days, ending on February 5, 2019.

The Tentative Map, Planned Development and Rezone process requires a notification radius of 1,000 feet, a physical sign posting and a published notification within the local news publication (*Mountain Democrat*), at least ten days prior to hearing. Notices were mailed out prior to the Planning Commission hearing regarding the project on October 24, 2019 and the project notice was published in the *Mountain Democrat* on September 27, 2019. An additional notification took place prior to the Board of Supervisors hearing date of December 17, 2019. Notices were mailed and the project notice was published in the *Mountain Democrat* on November 27, 2019. The project applicant installed two on-site signs prior to the Notice of Preparation. Onsite notification signs were vandalized and cut down after installation. The project applicant replaced the vandalized signs, which were then vandalized and cut down again. Planning Staff finds that the project applicant made a good faith effort to adequately place onsite notification on the project property and that they fulfilled the intention of the notification requirements.

In addition to community input opportunities provided by the County, the Project applicant team conducted door-to-door outreach in the vicinity to discuss the project with local residents. The project applicant team attended 4 El Dorado Hills Area Planning Advisory Committee meetings, including meetings on February 8, 2017, November 8, 2017, December 12, 2018, September 11, 2019 to answer questions related to the project and discuss potential approaches to addressing concerns. As a result of the Project applicant's initial outreach efforts, the project was refined to include a multi-use trail accessible to the community, street widths were widened, access to Malcolm Dixon Road was restricted, additional neighborhood turn-arounds were included, and the old schoolhouse and pond were placed within an open space lot to retain these features on-site. Early construction of transportation improvement projects, such as at Loch Way/Green Valley Road improvements, was included through the mitigation measures and the applicant has

further offered to construct the Loch Way/Green Valley Road improvements in conjunction with the first phase of the Project.

Sayegh Settlement Agreement

For the first time at the hearing on December 17, 2019, Paul Sayegh indicated during public comment that a settlement agreement existed that affected the project. County staff was not aware of and had not been informed about this settlement agreement before December 17, 2019. County Counsel has since obtained a copy of the “Confidential Settlement Agreement and Release” and reviewed it. The private settlement agreement was entered into in February 2010 by Diamante Development, LLC, Chris LaBarbera, and Paul Sayegh. The County was not a party to the private settlement agreement and nothing in the agreement purports to or could bind the County or restrict the Board of Supervisors’ discretion to consider the pending project. The private agreement was entered into in response to the Diamante Estates project (TM06-1421/Z06-0017), which is an approved tentative map and rezone creating 19 single family residential lots ranging in size from 5.0 to 9.9 acres by the prior owner and developer of the property. The private settlement agreement is limited to the prior Diamante Estates project and resolution of a potential CEQA challenge to that project. There is no language in the agreement that purports to impose restrictions that run with the land so that they are binding on successive owners of the property. Nor was the settlement agreement recorded for the parcel, which the applicant confirmed by providing a title report dated December 20, 2019. Based on review of these documents, County Counsel has concluded that the private settlement agreement does not affect or limit the Board of Supervisors’ discretion to consider or take action on the pending project.

Open Space, Agriculture and Density Bonus

The proposed project is requesting a density bonus based on the dedication of common open spaces parcels. Within the common open space area proposed approximately 25 acres of vineyards are being proposed. The density bonus calculation includes the approximately 25 acres of vineyards as part of the open space. Density bonuses may be earned where a minimum of 30 percent of land area within a residential planned development project is set aside for commonly owned or publically dedicated open space. The propose project is proposing to set aside 65.07 acres of developable land (approximately 65 percent of the project parcel) to commonly owned open space. Section 130.28.050.A of the El Dorado County Zoning Ordinance further defines commonly owned open space to include the protection of agricultural or natural resources. Under this definition the use of vineyards located within commonly owned open space would be compatible, and usable within the density bonus calculation. The maintenance of vines and use of pesticide/herbicide control is addressed by Mitigation Measure 3.7.3, which states:

Mitigation Measure 3.7-3: The applicant shall work with the Home Owners’ Association (HOA) or its designee to create a plan for operation of the on-site vineyard which specifies, among other topics, who would be responsible for ensuring that operation of the vineyard complies with all applicable County and State regulations regarding pesticide and herbicide control and application, pest control, runoff management, and any other relevant topics. Potentially applicable regulations, forms, and/or permits which the applicant and/or HOA may need to comply with include: Agricultural Grading Application, Restricted Materials Pesticide Permit, Small Farm Irrigation Rate Application, Agricultural Pest Control Adviser County Registration

Form, and Registration and Fieldworker Safety Requirements for Farm Labor Contract. The applicable regulations would depend on the ultimate design and use of the on-site vineyard (i.e., the ultimate size of the vineyard, and the ultimate use of the harvested materials). The operation plan shall be submitted to the El Dorado and Alpine Counties Department of Agriculture Weights and Measures for review and approval. The operation plan may be amended from time to time and shall be submitted to the Agriculture Department for review and approval of any substantive amendments. The HOA formation documents shall require the HOA to implement and abide by the operations plan.

Condition of Approval 15 Off-Site Improvements

At the December 17, 2019 Board of Supervisor's Meeting it was directed to staff to clarify Condition of Approval (COA) 15 that the Loch Way improvements would be developer funded. COA 15 was developed to deal with procedural requirements for Road Improvement Agreements, and provide flexibility in the development and construction of the required improvements. In some cases, a Developer has been conditioned to build improvements that are reimbursable from the County Traffic Impact Mitigation (TIM) Fees, or from an Area of Benefit Fee, or Community Facilities District funds. Often this type of arrangement is solidified by a Development Agreement.

In the case of the proposed project, there is an un-funded County Capital Improvement Project for Malcolm Dixon Road, but no Traffic Impact Mitigation Fees were, or are being collected for these improvements. As such, there is no County funding available for reimbursement. Sub-paragraph a. of COA 15 has been revised to reflect this and sub-paragraph c. of COA 15 may be deleted. Proposed changes to Condition of Approval 15 are made in the ~~strikeout~~/underline format.

12. Off-Site Improvements – Mitigation of Project Transportation Impacts:

- a. The Project shall be responsible for design, Plans, Specifications and Estimate (PS&E), utility relocation, right of way acquisition, and construction of the following improvements as identified in the Transportation Impact Study prepared by Kimberley-Horn dated Nov. 11, 2016:
 - i. Green Valley Road two-way left-turn lane (TWLTL) at Loch Way intersection: Construct this improvement concurrent with or prior to any final map creating the 11th lot.
 - ~~ii. Chartraw Road (aka Malcolm Dixon Connector, aka New Connector Roadway): Restriction of southbound left turn to Green Valley Road in the form of median channelization on Green Valley Road or a raised island on the Chartraw Road approach. Construct this improvement concurrent with or prior to any final map creating the 9th lot.~~

Enter into a Road Improvement Agreement (RIA) with the County to construct said improvements. Approval of the improvement plans and RIA shall be required prior to or concurrent with that final map and associated Subdivision Improvement Agreement (SIA). The SIA shall include a reference to the RIA

containing the required mitigation measures. The applicant has agreed to be responsible for the cost of the Green Valley Road two-way left-turn lane at Loch Way intersection and will not seek reimbursement for this condition.

- b. The construction of the required mitigation measures shall be complete prior to issuance of a Building Permit (for each phase requiring such mitigation measures), or the project shall demonstrate to the County that a contract for the construction has been entered into between the project and a properly licensed contractor, specific to work covered in the RIA, and to include securities for performance and payment under such contract.
- ~~c. The project may be eligible for reimbursement of a portion of the cost of the mitigation measure if the mitigation measure is included in the County's Traffic Impact Mitigation Fee Program.~~

Road Widths

Road widths identified within Condition of Approval (COA) 12 have been identified of being inconsistent with COA 33 Fire Department Access, which identifies minimum 26-foot wide roadway throughout the project. Proposed changes to COA 12 are made in the ~~strikeout~~/underline format.

13. Road Design Standards: The Project shall construct all roads in conformance with the County Design and Improvements Standard Manual (DISM) modified as shown on the Tentative Map and as presented in Table 1 (the requirements outlined in Table 1 are minimums).

ROAD NAME	REFERENCE	ROAD¹/ RW Width	EXCEPTIONS/ NOTES
Road A, from Malcolm Dixon Road to Road B	Standard Plan 101C	24 <u>26</u> feet / 30 feet ²	3" HMA on 8" Class 2 AB Type E Dike as shown on Tentative Map
Via Veritas (private portion)	Standard Plan 101C	24 <u>26</u> feet / 30 feet ²	3" HMA on 8" Class 2 AB Type E Dike as shown on Tentative Map
Road A (from Road B to end), Road B, Road C, Road D	Standard Plan 101C	22 <u>26</u> feet / 30 feet ²	3" HMA on 8" Class 2 AB Type E Dike as shown on Tentative Map

¹ Road widths are measured from flow line to flow line.
² Subject to fee waiver request