



## Legislation Text

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**File #:** 07-903, **Version:** 2

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Hearing to consider an appeal on the denial of Tentative Parcel Map P06-0027 to allow the creation of two parcels ranging in size from 4.81 to 5.08 acres and a design waiver to allow a reduction of road improvements over an 80-foot on-site portion of Mary Ann Lane from 24 to 18 feet with 2-foot shoulders per SRA Fire Safe Regulations on property, identified as APN 046-410-21, consisting of 9.9 acres located in the Somerset/Fairplay/Mt. Aukum area; Appellant: Julius C. and Maria B. Martines. (District II)

**RECOMMENDED ACTION:** Planning Services recommends the Board deny the appeal, thereby upholding the action of the Zoning Administrator on May 16, 2007, denying Tentative Parcel Map P06-0027.

**Alternative Recommendation:** Alternatively, the Board may consider adding a provision to the General Plan, similar to one contained in the Zoning Ordinance, that would allow the project to be approved with a less than five-acre parcel. A revision to Policy 5.3.1.2 would also be needed to address an Environmental Management policy requiring public water and sewer for parcels smaller than five acres. Staff has confirmed that Environmental Management would also support a similar amendment to Policy 5.3.1.2, thus allowing parcels of 4.5 acres to be consistent with the Land Use Element. Staff would then recommend that the project be continued off calendar with direction to staff to bring a Resolution of Intention back to the Board to amend General Plan Policy 5.3.1.2 and develop a new policy similar to the Zoning Ordinance exception.

**Background:** At the Zoning Administrator hearing on May 16, 2007, Tentative Parcel Map P06-0027 was denied because the minimum five-acre parcel size required under the Low Density Residential General Plan land use designation was not met. The minimum parcel size is also inconsistent with General Plan Policy 5.3.1.2 requiring that the creation of lots less than five acres be required to provide either public water or sewer. This parcel map proposes to provide both well and individual septic systems.

The applicants would like the parcel map approved using the parcel size exception provision from Chapter 17.14.120 of the Zoning Ordinance to allow the 4.81-acre parcel to be found consistent with the General Plan.

*Chapter 17.14.120, Parcel Size Exception* provides for one new parcel of less size than is required in the prevailing zone regulations to be created. The point raised by the appellant is that at the time County staff began processing the parcel map application, staff believed that the parcel size exception provisions could be applied to the project. It was later determined that the provision of the Zoning Ordinance allowing for a 10 percent reduction in parcel size does not apply, because the minimum parcel size required under the General Plan land use designation does not provide any

exceptions to minimum parcel size, and the Zoning Ordinance is subservient to the General Plan.

In addition, there are no provisions in the General Plan allowing exceptions to the five-acre minimum parcel size required for the creation of parcels providing individual well and septic systems under *Policy 5.3.1.2*. Environmental Management should be consulted to see if this regulation could be amended without causing an inconsistency with any state or local ordinance.

#### ATTACHMENTS

Appeal Form

Attachment 1 - Findings for denial

Staff Report dated May 16, 2007

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