

**COUNTY OF EL DORADO DEVELOPMENT SERVICES
PLANNING COMMISSION
REVISED STAFF REPORT**



Agenda of: May 13, 2010
Item No.: 10
Staff: Michael C. Baron

REZONE/TENTATIVE MAP

FILE NUMBER: Z05-0015/TM05-1401/Malcolm Dixon Road Estates

APPLICANT: Omni Financial LLC, Martin Boone

ENGINEER: North Coast Resource Management, Kaycie Edwards

REQUEST:

1. Zone change from Exclusive Agriculture (AE) to Estate Residential Five-Acre (RE-5), and
2. Tentative Map (Exhibit E) to create 8 residential lots ranging in size from 5.0 acres to 5.6 acres.

LOCATION: On the north side of Malcolm Dixon Road, approximately one-half mile east of the intersection with Salmon Falls Road, in the El Dorado Hills area, Supervisorial District IV (Exhibit A).

APN: 126-100-23 (Exhibit B)

ACREAGE: 40.6 acres

GENERAL PLAN: Low Density Residential (LDR) (Exhibit C)

ZONING: Exclusive Agriculture (AE) (Exhibit D)

ENVIRONMENTAL DOCUMENT: Mitigated Negative Declaration (MND)

RECOMMENDATION

Staff recommends the Planning Commission forward the following recommendations to the Board of Supervisors:

1. Adopt the Mitigated Negative Declaration based on the Initial Study prepared by staff;
2. Adopt the Mitigation Monitoring Program in accordance with CEQA Guidelines Section 15074(d) incorporated as Conditions of Approval in Attachment 1;
3. Approve Rezone Z05-0015 based on the Findings listed in Attachment 2; and
4. Approve Tentative Map TM05-1401 based on the Findings listed in Attachment 2, and subject to the Conditions of Approval listed in Attachment 1.

BACKGROUND: An application for a Zone Change and Tentative Subdivision Map was submitted on December 2, 2005. A Technical Advisory Committee (TAC) meeting was held on April 17, 2006. As a result of agency comments and General Plan issues discussed at the TAC meeting, additional map revisions were required and received by staff at various points through 2006. Early on in processing of the project, an issue of legal access was brought to the property owners' attention and subsequently resulted in a superior court settlement agreement with an adjacent property owner. A completed Tentative Map and associated exhibits were provided in October 2009 and January 2010.

STAFF ANALYSIS

Project Description: The project request includes a Zone Change from Exclusive Agriculture (AE) to Estate Residential Five-Acre (RE-5) and a Tentative Map to create 8 lots ranging in size from 5.0 acres to 5.6 acres. Each parcel would be served with public water and private septic systems. Access to the proposed subdivision would be from a proposed roadway connection to the south at the existing Malcolm Dixon Road extending further off-site to the south providing an additional connection to Green Valley Road. Additional access could eventually come from two proposed roadway connections one at the adjacent Diamante Subdivision to the south onto Malcolm Dixon Road as well as a connection to the northwest onto Salmon Falls Road through the La Canada Subdivision. No Design Waivers from the Design and Improvement Standards Manual have been requested.

Site Description: The site is comprised of approximately 90 percent grassland with dispersed areas of heavy oak canopy comprising approximately eight percent of the site on moderately sloping terrain and is situated at an elevation range of approximately 800 to 900 feet. The site generally slopes from the northeast to the southwest. There is an existing residence in the northwest corner of the site. Two abandoned buildings are situated on the adjacent property to the southwest and a residence is located adjacent to Malcolm Dixon Road in the southeast corner adjacent to the project site. Surrounding land uses include residences, pastureland, and oak woodland.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	AE	LDR	Existing Residence and Undeveloped
North	RE-5 PD	LDR	Vacant
South	RE-5	LDR	Vacant
East	RE-5	LDR	Existing Residential
West	RE-5	LDR	Vacant

General Plan: The following General Plan policies apply to this project:

The General Plan designates the subject site as Low-Density Residential (LDR), where **Policy 2.2.1.2** permits a maximum density of one dwelling unit per 5.0 acres, with parcel sizes ranging from 5.0 to 10.0 acres. The proposed project consists of 8 residential lots on 40.6 acres zoned for Residential Five-Acre (RE-5), resulting in a net density of one unit per 5.08 acres. Therefore the proposed parcels conform to the General Plan land use designation.

General Plan **Policy 2.2.5.3** requires the County to evaluate future rezoning: (1) To be based on the General Plan’s general direction as to minimum parcel size or maximum allowable density; and (2) To assess whether changes in conditions that would support a higher density or intensity zoning district. The specific criteria to be considered include; but are not limited to, the following:

1. *Availability of an adequate public water source or an approved Capital Improvement Project to increase service for existing land use demands;*

Discussion: The proposed project would be served by public water. The applicant has provided a Facilities Improvement Letter (FIL) issued by El Dorado Irrigation District (EID) assuring that the proposed parcels could be provided with an adequate water supply.

2. *Availability and capacity of public treated water system;*

Discussion: As discussed above, proposed parcels would be served by public water provided by EID.

3. *Availability and capacity of public waste water treatment system;*

Discussion: Each home would be served by individual septic systems located on each parcel. A percolation rate study was conducted by Ron Duncan, REHS #3336 in 4 separate locations on the project site and evaluated by the El Dorado County Department of Environmental Management to ensure that each parcel could provide adequate septic systems.

4. *Distance to and capacity of the serving elementary and high school;*

Discussion: The project site is located within Rescue Union School District and the El Dorado Union High School District. The distance to the closest elementary school, Lake Forest Elementary, is 1.4 miles, in El Dorado Hills. The distance to the closest high school, Oak Ridge High School, is 2.5 miles, in El Dorado Hills. The affected school districts were contacted as part of the initial consultation process, and no specific comments or mitigation measures were received.

5. *Response time from the nearest fire station handling structure fires;*

Discussion: The El Dorado Hills Fire Department would be responsible for providing fire protection to the subject site upon annexation into the District. The closest fire station is Station 84, located just 2.1 miles from the project site. The project site is located within the Departments Response Zone 84b. The response time from station 84b is around 4.5 minutes. The District was contacted as part of the initial consultation process. As such, the District has reviewed the proposal and indicated that adherence to the applicable building and fire codes, as well as conditions of approval regarding the installation of hydrants, development standards, fire safe plan, and construction of road improvements shown on the Tentative Subdivision Map, would satisfactorily address all fire related safety issues.

6. *Distance to nearest Community Region or Rural Center;*

Discussion: The project site is located 0.5 miles north of the El Dorado Hills Community Region. As proposed, the project is residential project adjacent to compatible existing residential land uses.

7. *Erosion hazard;*

Discussion: The site is composed of sloping terrain ranging in elevation from approximately 800 to 925 feet above mean sea level. Grading is proposed to complete the development, resulting in potential for soil erosion at the site. Construction of roads and potential building sites for homes would occur on grades of up to 30 percent. All grading activities are required to comply with the El Dorado County Grading, Erosion, and Sediment Control Ordinance. The project is conditioned, to require review and submittal of an erosion control plan to limit impacts resulting from grading activities and perform revegetation of disturbed soils. The California Regional Water Quality Control Board would require the use of Best Management Practices during construction, including the use of swales and filters to reduce soil runoff and preserve topsoil on the site.

8. *Septic and leach field capability;*

Discussion: The Environmental Management Department has reviewed the project and has no concerns relating to the capability of each parcel to adequately provide residential septic

systems. A study was provided by Ron Duncan REHS #3336 indicating acceptable septic viability for each of the proposed lots.

9. *Groundwater capability to support wells;*

Discussion: Each of the proposed parcels would be served by public water. A Facilities Improvement letter (FIL) dated November 2, 2009 was submitted noting that adequate public water supplies exist upon annexation into the District. There would be no impact associated with Groundwater capability to support wells.

10. *Critical flora and fauna habitat areas:*

Discussion: The County's General Plan designates areas within the County that have the potential to affect rare plants. The County's General Plan and General Plan EIR define Rare Plant Mitigation Areas within the County, which designate lands potentially affecting rare plants that are subject to mitigation. The project site is not within a Rare Plant Mitigation Area. This may indicate that the likelihood of special status flora species to occur within the project site is considered low. However, the parcel immediately to the west of the proposed project site was found to contain suitable habitat for special status species. The proximity of the project site to adjacent property, and the suitable habitat found there is reasonable evidence to assume the project site itself contains suitable habitat for the special status species. The project site is expected to support a wide diversity of wildlife due to the likely availability of nesting sites, escape, thermal cover and abundant food. Likely special status species include Cooper's hawk, red-shouldered hawk, red-tailed hawk, and great horned owl. Although the site is not within an area designated by the County's General Plan as a Rare Plant Mitigation Area, a site survey indicated that the site contains habitats which may support special status plants including Big-scale balsam root, Brandegees clarkia, and Tuolumne button-celery. Mitigation Measures contained within the MND, included as Attachment 1 in the Conditions of Approval, would reduce potential impacts to critical flora and fauna habitat areas to a less than significant level.

11. *Important timber production areas:*

Discussion: The project is not located in or near an important timber production area.

12. *Important agricultural areas;*

Discussion: The Low Density General Plan Land Use Designation allows for single-family residential development of the project area. The site is presently zoned Exclusive Agriculture (AE). However, the site is not within an active agricultural area, and there are no current agricultural uses. Thus, the site is not considered an important agricultural area.

13. *Important mineral resource areas;*

Discussion: The project is not within a Mineral Resource Zone and would not impact any important mineral resources.

14. *Capacity of the transportation system serving the area;*

Discussion: The El Dorado County Department of Transportation reviewed the submitted traffic study and concluded that the recommended conditions of approval, including improvements to existing roadways, would sufficiently address project traffic issues and ensure that the transportation system is adequate to serve the area. El Dorado Transit has reviewed the project and has no specific conditions of approval regarding the project.

15. *Existing land use patterns;*

Discussion: The project area is surrounded by existing residential land uses. The project is also surrounded by Estate Residential 5-acre zoned lands along the western boundaries. Rezone applications to Estate Residential 5-Acre (RE-5) and RE-5 PD have been approved for the parcels immediately to the north as well as to the south of the project site. It has been determined that the proposed project is consistent with existing land use patterns within the immediate project area.

16. *Proximity to perennial water course;*

Discussion: According to the wetland delineation report submitted on January 19, 2006, prepared by Ecorp Consulting Inc., the total acreage of potential jurisdictional wetlands and other waters of the U.S. at the subject site are 0.45 acres. These water features include 0.21 acres of intermittent drainage and 0.24 acres of seasonal wetland swale. General Plan Policy 7.3.3.4 requires a minimum setback of 50 feet from the wetlands delineated on the Tentative Subdivision Map. All wetlands on the site are protected through the incorporation of 50 foot setbacks, as shown on the Tentative Map.

17. *Important historical/archeological sites;*

Discussion: A records search and pedestrian survey of the site revealed three cultural resource sites that were previously recorded within ¼ mile of the project site. No cultural resources were recorded within the project site. Due to the proximity of cultural resources, a mitigation measure has been added to the Mitigated Negative Declaration (MND) to ensure that additional discovered artifacts are appropriately documented and preserved, as appropriate.

18. *Seismic hazards and present active faults; and*

Discussion: As shown in the Division of Mines and Geology's publication Fault Rupture Hazard Zones in California, there are no Alquist-Priolo Special Studies Zones mapped in El Dorado County. The impacts from fault ruptures, seismically induced ground shaking, or seismic ground failure, or liquefaction are considered to be less than significant. Any potential impact caused by locating buildings in the project area would be offset by the compliance with the Uniform Building Code earthquake standards.

19. *Consistency with existing Conditions, Covenants, and Restrictions.*

Discussion: No Conditions, Covenants, and Restrictions are effective within the project area. Master CC & R's would be reviewed and recorded prior to Final Map approval.

General Plan **Policy 2.2.5.21** requires that development projects be located and designed in a manner that avoids incompatibility with adjoining land uses that are permitted by policies in effect at the time the development project is proposed. The project site is surrounded by both existing and proposed residential land uses, which are compatible with the proposed development. The proposed subdivision would fit within the context of these existing and proposed residential uses.

Policy 5.2.1.2: An adequate quantity and quality of water for all uses, including fire protection, shall be provided for with discretionary development.

Discussion: The applicant has provided a Facilities Improvement Letter (FIL) issued by El Dorado Irrigation District (EID) that provides information indicating that adequate water resources would exist prior to the recordation of a final map.

As required by General Plan **Policy 5.7.1.1**, the applicant would be required to demonstrate that adequate emergency water supply, storage, conveyance facilities, and access for fire protection either are or would be provided concurrent with development. The El Dorado Hills Fire Department would provide fire service to the site upon annexation. A Fire Safe Plan, minimum roadway widths, and fire hydrant placement have been required by the Fire Department to ensure adequate fire protection infrastructure.

Pursuant to the General Plan **Policy 7.3.3.4**, a 50-foot setback is required from the 1.44 acres of wetlands located at the site and shall be shown on the Final Map prior to approval. These water features are shown on the Tentative Subdivision Map (Exhibit E). After applying the 50-foot wetland setbacks, 30-foot building setbacks, and applying the required tree canopy retention standards, buildable areas for each lot have been verified and are shown on Exhibit E.

The proposed project is consistent with General Plan **Policy 7.4.4.4** where adequate development area exists on each of the proposed parcels where a single family dwelling and related improvements could be built without the removal of oak trees.

General Plan **Policy 8.1.3.1** requires buffers between Agriculturally Zoned lands including Williamson Act Contract properties. Adjacent properties to the north, east, and south, were previously Zoned Exclusive Agricultural (AE) and are surrounded by residential uses. The subject

parcel and surrounding parcels are currently not within agricultural production, not in an Agricultural District, nor active Williamson Act Contracts, and contains no Prime/Choice Soils. **Policy 8.1.3.1** applies to parcels adjacent to agriculturally zoned lands, requiring adjacent parcels to be a minimum of 10 acres. The proposed parcel sizes for this project range from 5.0 acres to 5.6 acres, below the minimum. However, each of the surrounding parcels zoned AE currently have approved Tentative Subdivision Maps and have been rezoned to RE-5.

Zoning: The applicant is requesting that the project site be rezoned from Exclusive Agriculture (AE) to Estate Residential 5-Acre (RE-5). This would facilitate the creation of 8 lots zoned Estate Residential 5-Acre (RE-5). The Zone Change is consistent with the existing Low Density Residential General Plan Land Use Designation (LDR). The proposed lot sizes are consistent with the proposed Estate Residential 5-Acre (RE-5) Zone District.

Tentative Map: The Tentative Subdivision Map would create 8 individual parcels. Seven parcels would be a minimum of 5.0 acres and one would be 5.6 acres. The total of acreage of the proposed lots is 40.6 acres.

Design Waivers Discussion: As proposed, no design waivers from the Design and Improvements Standards manual have been requested for the Tentative Subdivision Map.

Other Issues:

Access/Circulation: The project could gain future access via an additional encroachment onto Malcolm Dixon Road through the adjacent Diamante Estates Subdivision and one to Salmon Falls Road through an adjacent subdivision to the northwest (La Canada).

Air Quality: The El Dorado County Air Quality Management District reviewed the submitted air quality analysis and has included standard conditions to reduce the impacts on the air quality. The standard conditions have been included in Attachment 1, as a part of the Conditions of Approval. Mitigation Measures are consistent with the recommendations of the Air Quality Analysis.

Cultural Resources: A Record Search was conducted by North Central information Center, dated May 17, 2005 and concluded that there is a low to moderate potential of identifying prehistoric and historic archeological resources in the project area. Mitigation measures have been incorporated into the project to avoid potential impacts to cultural resources.

EID Annexation: The Local Agency Formation Commission (LAFCO) reviewed the proposed subdivision and identified the need for the subject site to annex into the EID service area to receive public water and the El Dorado Hills County Water District to receive fire protection services. LAFCO requests that annexation into EID be added to the Conditions of Approval for the Tentative Map. LAFCO recommended the applicant contact LAFCO “near the end of the Tentative Subdivision Map process to inquire about annexation into” EID. LAFCO also identified potential issues to be addressed within the Initial Study. Most of the requested changes were made to the Initial Study, as well as a requested change to Section XVI. Utilities and Service Systems (d) which deals with the availability of sufficient water supply from existing entitlements and resources and

whether or not new or expanded entitlements would be needed.

Fire: Upon annexation to El Dorado Hills County Water District, the El Dorado Hills Fire Department (EDHFD) would provide fire protection services to the site.

Noise: The project, during construction and earthwork, may generate temporary and intermittent noise. There are residential units on parcels adjacent to the project site. Under the County's noise ordinance, construction activities and earthwork would be limited to 8AM to 6PM Monday through Friday and no work on the weekends to minimize affects on nearby residences.

Public Transit: The El Dorado County Transit Authority reviewed the proposed subdivision and had no concerns or specific conditions of approval requested.

Surveyor's Office: The Surveyor's Office reviewed the proposed project and noted that survey monuments must be set, roads named through the Surveyor's Office prior to Final Map filing, and provide a Parcel Map Guarantee showing proof of access to a State or County Maintained Road.

Utilities: The project was initially distributed to Pacific Gas and Electric Company, AT&T, and Comcast. None of the utility companies had any comments on the project.

Wastewater: Each of the proposed parcels would be served by individual septic systems.

Wetlands: The applicant has designed the project so that individual residential developments would avoid impacts to ponds, wetlands and intermittent streams. Construction activities must provide a minimum 100-foot setback from lakes and rivers and a 50-foot setback from the riparian features. These non building setbacks would be shown on the final map

ENVIRONMENTAL REVIEW

Staff has prepared an Initial Study (Environmental Checklist with Discussion), attached as Exhibit K, to determine if the project has a significant effect on the environment. Based on the Initial Study, conditions have been added to the project to avoid or mitigate to a point of insignificance the potentially significant effects of the project. Staff has determined that there is no substantial evidence that the proposed project, as conditioned, would have a significant effect on the environment, and a Mitigated Negative Declaration has been prepared.

This project is located within or adjacent to an area which has wildlife resources (riparian lands, wetlands, watercourse, native plant life, rare plants, threatened and endangered plants or animals, etc.), and was referred to the California Department of Fish and Game. In accordance with State Legislation (California Fish and Game Code Section 711.4), the project is subject to a fee of \$2,060.25 after approval, but prior to the County filing the Notice of Determination on the project. This fee, includes a \$50.00 recording fee, is to be submitted to Planning Services and must be made payable to El Dorado County. The \$2,010.25 is forwarded to the State Department of Fish and Game and is used to help defray the cost of managing and protecting the States fish and wildlife resources.

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1	Conditions of Approval
Attachment 2	Findings
Exhibit A	Location Map
Exhibit B	Assessor's Parcel Map
Exhibit C	General Plan Land Use Map
Exhibit D	Zoning Map
Exhibit E	Tentative Subdivision Map
Exhibit F	Preliminary Grading and Drainage Plan
Exhibit G	Slope Map
Exhibit H	Oak Canopy Map
Exhibit I	Salmon Falls/Green Valley Road Circulation Plan (Exhibit X)
Exhibit J	Agricultural Commission Recommendation
Exhibit K	Environmental Checklist and Discussion of Impacts

ATTACHMENT 1

CONDITIONS OF APPROVAL

**Z05-0015/TM05-1401/Malcolm Dixon Road Estates
May 13, 2010/Planning Commission Hearing**

1. This Tentative Map and Zone Change approval is based upon and limited to compliance with the project description, hearing Exhibits E-I, and Conditions of Approval set forth below. Any deviations from the project description, exhibits or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

The project description is as follows:

The project includes a request for a Zone Change from Exclusive Agriculture (AE) to Estate Residential Five-Acre (RE-5). A Tentative Map to create 8 lots ranging in size from 5.0 acres to 5.6 acres. Access to the proposed subdivision would be from a proposed roadway connection to the south at the existing Malcolm Dixon Road extending further off-site to the south providing an additional connection to Green Valley Road. The project proposes to use public water and individual septic systems. In order for the project to be eligible for public water and fire services the property would be require annexation by LAFCO into the local water and fire districts. No Design Waivers have been requested

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased, or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto. All plans (Tentative Subdivision Map, Preliminary Grading and Drainage Plan, Slope Map, and Oak Canopy Map) must be submitted for review and approval and shall be implemented as approved by the County.

2. Prior to issuance of a building permit or commencement of any use authorized by this permit the applicant shall provide a written description, together with appropriate documentation, showing conformance of the project with each condition imposed as part of the project approval. The applicant shall also schedule an inspection by Planning Services prior to issuance of a building permit for verification of compliance with applicable conditions of approval.

CONDITIONS FROM THE MITIGATED NEGATIVE DELECRATION

The following mitigation measures are required as a means to reduce potential significant environmental effects to a level of insignificance:

3. To avoid take of active raptor nests, pre-construction surveys shall be conducted by a qualified biologist no more than 30 days prior to initiation of proposed development activities. Survey results shall then be submitted to CDFG. If active raptor nests are found on or immediately adjacent to the site, consultation shall occur with CDFG to determine appropriate avoidance measures. If no nesting is found to occur, necessary tree removal could then proceed.

Monitoring Responsibility: Planning Services

Monitoring Requirement: Planning Services shall ensure that adequate surveys are prepared prior to issuance of building permit.

4. Special status plant surveys to determine presence or absence of these species should take place in May or June. Vegetation surveys will follow protocol guidelines issued by the California Department of Fish and Game. These guidelines state that surveys for special status plants be done at the appropriate times of the year, and that all individuals observed be identified to the extent necessary to determine whether it is a special status species.

Monitoring Responsibility: Planning Services

Monitoring Requirement: Planning Services shall ensure that adequate surveys are prepared prior to issuance of building permit.

El Dorado Hills Fire Department

5. The project applicant shall provide potable water for fire protection.
6. The developer shall install Muller Dry Barrel fire hydrants conforming to the El Dorado Irrigation District specifications for the purposes of providing water for fire protection. The spacing between hydrants for this development shall not exceed 500 feet. The exact location of each hydrant shall be determined and approved by the Fire Department.
7. Each hydrant shall be painted with safety white enamel and marked in the roadway with a blue reflective marker as specified by the Fire Department and the Fire Safe Regulations to enhance nighttime visibility.
8. All access roadways and fire hydrant systems shall be installed and in service prior to filing the Final Map of any combustible members as specified by the El Dorado Hills Fire Department Standard 103.

9. Lots that back up to Wildland Open Space shall construct fences composed of non-combustible material, with a three foot wide gate located in accordance with Fire Department requirements to allow emergency access into the open space areas prior to finaling any building permit.
10. Driveways serving the project shall be designed to a maximum of 20% grade. Driveways exceeding the 20% grade shall install fire sprinklers per the NRPA 130 standards within the dwelling unit prior to finaling any building permit.
11. Any type of traffic calming device that utilizes a raised bump section of roadway is prohibited.
12. Lots shall have a minimum setback of a minimum of 30 feet, as required by the Fire Safe Regulations.
13. Proper roadway access and circulation shall be provided to allow access to the site. Roadways shall be coordinated with other proposed developments in the area and designed in accordance with the Fire Department regulations.
14. No access control devices that obstruct traffic circulation shall be installed, per State Fire Regulation Section 1273.
15. A Fire Safe Plan, approved by the El Dorado Hills Fire Department, is required to be developed and implemented prior to occupancy prior to filing the Final Map.

LAFCO

16. Prior to Final Map filing, the applicant shall complete the annexation process into El Dorado Irrigation District (EID) through LAFCO and submit evidence of the satisfaction of this condition to Planning Services upon completion.
17. Prior to Final Map filing, the applicant shall complete the annexation process into El Dorado Hills Fire Department (El Dorado Hills County Water Agency) through LAFCO and submit evidence of the satisfaction of this condition to Planning Services upon completion.

Planning Services

18. The applicant shall provide to Planning Services, a Meter Award Letter or similar document from El Dorado Irrigation District, prior to filing the Final Map.
19. The subdivision is subject to parkland dedication in-lieu fees based on values supplied by the Assessor's Office and calculated in accordance with Section 16.12.090 of the County Code. The applicant shall pay all fees at the time of filing the Final Map.

20. The subdivider shall pay a \$150.⁰⁰ appraisal fee payable to the El Dorado County Assessor for the determination of parkland dedication in-lieu fees.
21. Prior to issuance of a grading permit the applicant shall provide a written description, together with appropriate documentation, showing conformance of the project with each condition imposed as part of the project approval. The applicant shall also schedule an inspection by Planning Services if deemed necessary prior to issuance of a grading permit for verification of compliance with applicable conditions of approval.
22. This Tentative Subdivision Map shall expire in 36 months from date of approval unless a timely extension has been filed.
23. At time of final map filing, CC & R's shall be submitted and reviewed by Planning Services.
24. Construction activities shall be limited to the hours of 7 a.m. to 7 p.m. during weekdays and 8 a.m. to 5 p.m. on Saturday. Exceptions are allowed if it can be shown that construction beyond these times is necessary to alleviate traffic congestion and safety hazards. Planning Services shall verify this requirement is placed on the Grading Plans prior to issuance of a grading permit.
25. In the event of any legal action instituted by a third party challenging the validity of any provision of this approval, the developer and landowner agree to be responsible for the costs of defending such suit and shall hold County harmless from any legal fees or costs County may incur as a result of such action, as provided in Section 66474.9(b) of the Government Code.

The subdivider shall defend, indemnify, and hold harmless El Dorado County and its agents, officers, and employees from any claim, action, or proceeding against El Dorado County or its agents, officers, or employees to attack, set aside, void, or annul an approval of El Dorado County concerning a subdivision, which action is brought within the time period provided for in Section 66499.37.

County shall notify the subdivider of any claim, action, or proceeding and County will cooperate fully in the defense.

26. All Development Services fees shall be paid prior to recording the Final Map.

Surveyor's Office

27. All survey monuments must be set prior to the presentation of the Final Map to the Board of Supervisors for approval; or the developer shall have the surety of work to be done by bond or cash deposit. The project applicant shall ensure that verification of set survey monuments, or amount of bond or deposit are acceptable to the County Surveyor's Office.

28. The applicant shall file a completed road name petition for roads serving the development with the County Surveyor's Office prior to filing the Final Map.

El Dorado County Resource Conservation District

29. Prior to grading operations, the developer shall contact the District for review of an erosion control plan. The erosion control plan must be approved by the District prior to issuance of a grading permit.
30. Revegetation of all disturbed soils will be accomplished with approved amounts and types of vegetative species, mulch, and fertilizer materials per the "El Dorado County Erosion Control Requirements and Specifications – MLRA18." The applicant shall include these specifications as a part of the engineering drawings for the project.
31. The applicant shall analyze the downstream drainage areas for the capacity of existing structures to adequately handle runoff created by the proposed development and problems related to erosion control. The applicant shall complete this as part of the erosion control plan.
32. The applicant shall perform a hydrological analysis to assure the downstream drainage systems are adequate. The applicant shall complete this as part of the erosion control plan.

California Regional Water Quality Control Board

33. The applicant shall obtain a permit for the project under the National Pollutant Discharge Elimination System (NPDES). The applicant shall obtain the General Permit to cover this project prior to issuance of a grading permit.
34. The project applicant shall obtain a 401 Water Quality Certification prior to issuance of a grading permit.

El Dorado County Department of Environmental Health

35. Project applicant shall adhere to Rules 223, 223.1, and 223.2 during construction. The applicant shall submit a Fugitive Dust Plan Application with appropriate fees to and receive approval by the District prior to the issuance of a grading permit.
36. Project construction shall adhere to District Rule 224 Cutback and Emulsified Asphalt Paving Materials.
37. Burning of wastes on-site requires the applicant contact the District prior to the commencement of any burning for necessary burn permit requirements. Only vegetative waste materials are permitted to be disposed of using an open outdoor fire. Project construction shall adhere to District Rule 300 Open Burning.

38. The project construction shall adhere to District Rule 215 Architectural Coatings.

El Dorado County Department of Transportation

PROJECT-SPECIFIC DOT CONDITIONS:

39. **Road Design Standards:** The applicant shall construct all roads in conformance with the Design and Improvements Standard Manual (DISM), as shown in Table 1. The improvements shall be completed to the satisfaction of the Department of Transportation (DOT) or the applicant shall obtain an approved improvement agreement with security, prior to the filing of the Final Map: (the requirements outlined in Table 1 are minimums)

Table 1				
ROAD NAME	DESIGN STANDARD PLAN	ROAD WIDTH*/ SHOULDER WIDTH	RIGHT OF WAY**	EXCEPTIONS/ NOTES
Chartraw Road <i>(onsite)</i>	Std Plan 101C Maintenance Entity	24ft / 2 ft	50ft	Two 12 foot wide lanes and 2 foot wide shoulder per Exhibit X. 3"AC/8"AB section or as recommended in Soils report. 25 MPH Design Speed.
Chartraw / Diamante Road Widening <i>(offsite)</i> From STA: 21+70 <i>(New Connection)</i> to Chartraw southern boundary line.	Std Plan 101C Maintenance Entity	24ft Including slope easements. EP to EP	50ft	Two 12 foot wide lane and 2 foot wide shoulder per Exhibit X. 3"AC/8"AB section or as recommended in Soils report. Road width is measured EP to EP. 25 MPH Design Speed.

*Road width is measured edge of pavement to edge of pavement.

40. **Multi-Project Area of Benefit:** Upon the applicant's request, the County will form and implement, at the applicant's expense, a public improvement financing district for funding or reimbursement of the costs of off-site public improvements to be constructed as identified in the Exhibit X entitled Malcolm Dixon Area Traffic Circulation Plan. The applicant shall prepare and submit for County's approval and adoption a proposed Area of Benefit and supporting Engineers Estimate and Report for the purpose of financing and reimbursement of required off-site land acquisitions, widening and (re-) construction of public improvements as may be appropriate. The proposed Area of Benefit shall include but not be limited to parcels APN: 110-020-12, 126-100-18, 19, 23, & 24. The Area of Benefit Engineer's Report shall be prepared and submitted and the proposed public financing district formed prior to the filing of the Final Map. For development projects within the proposed public financing district Area of Benefit, County shall require consent by the land owner to the public

financing district and participation in the funding or reimbursement and/or construction of the off-site public improvements for Malcolm Dixon Area Traffic Circulation Plan on a pro rata share of residential lots or equivalent share basis as a condition of approval. For development projects which may derive benefit from the public improvements to be constructed as part of the Malcolm Dixon Area Traffic Circulation Plan, County shall require participation in the funding and reimbursement and/or construction of the off-site public improvements for Malcolm Dixon Area Traffic Circulation Plan on a pro rata share of residential lots or equivalent share basis as a condition of project approval.

41. **Area of Benefit Improvements:** The following Area of Benefit Improvements are required of all projects party to the Area of Benefit. This project’s proportional share and financial responsibility for these improvements shall be determined by the Engineer’s Report. These improvements shall be completed to the satisfaction of DOT prior to filing of the Final Map.

Table 2			
ROAD NAME		ROAD WIDTH	EXCEPTIONS/NOTES
AREA OF BENEFIT Off-Site Malcolm Dixon Road Widening From STA:10+00 to STA:28+20	Std Plan 101B County Maintained System	24ft (50ft R/W) EP to EP	Two 12 foot wide lanes and 3 foot wide shoulder per Exhibit X. 2”AC overlay over existing section. No vertical profile change. 3”AC/8”AB section for pavement extension or as recommended in Soils report.
AREA OF BENEFIT Off-Site Malcolm Dixon Road Reconstruction From STA:28+20 to STA: 40+51	Std Plan 101B County Maintained System	24ft (50ft R/W) Including slope easements. EP to EP	Two 12 foot wide lanes, AC dike and 3 foot wide shoulder per Exhibit X. Omit shoulders at (e) Box Culvert location. 3”AC/8”AB or as recommended in Soils report. For design speed see Exhibit X.
AREA OF BENEFIT New Connection Reconstruction portion From STA: 20+20 to STA: 21+70.	Std Plan 101B County Maintained System	24ft (50ft R/W) Including slope easements. EP to EP	Two 12 foot wide lanes, AC dike and 2 foot wide shoulder per Exhibit X. 3”AC/8”AB section or as recommended in Soils report. For design speed see Exhibit X.
AREA OF BENEFIT Off-Site New Connection From STA:10+00 to STA:15+44	Std Plan 101B County Maintained System	36ft (60ft R/W) Including slope easements. FC to FC	36 foot travel way, curb, gutter and 6 foot wide shoulder per Exhibit X. 3”AC/8”AB section or as recommended in Soils report. For design speed see Exhibit X. 36 feet will accommodate two 11-foot travel lanes and a 10-foot striped turn pocket if necessary and 2-foot gutter pans on each side.

42. **Offer of Dedication, Interior Roads:** Developer shall irrevocably offer to dedicate in fee, a 50 foot wide road and public utilities easement that extends from the southern boundary line to the northern boundary line (to provide access to development beyond) as determined by EDC DOT, and for all other onsite roadways, prior to the filing of the map. Slope easements shall be included as necessary. This offer will be rejected by the County.
43. **Encroachment Permit:** The applicant shall obtain an encroachment permit from DOT and shall construct the roadway encroachment from the access roadway onto Malcolm-Dixon

Road to the provisions of County Design Std 103D. The improvements shall be completed to the satisfaction of the Department of Transportation or the applicant shall obtain an approved improvement agreement with security, prior to the filing of the Final Map.

44. **Off-site Access Easements:** The applicant shall provide proof of access to the project site from a State or County maintained road. Said proof shall guarantee access for this site to use the proposed offsite roadways to the south and east and shall be provided by and through a “Map Guarantee” which shall be submitted to the County Surveyor’s Office with the first map check for the map.
45. **Reciprocal Access Agreement:** The applicant shall provide a reciprocal access agreement, signed by the adjoining property owners, guaranteeing access for this site to use the proposed off-site roadways from this project to Salmon Falls Road, prior to the filing of the map. This agreement shall also allow the adjoining landowners to use the onsite roads to access Malcolm Dixon Road.
46. **Turnaround:** The applicant shall provide a turn around at the end of the onsite roadways to the provisions of County Standard Plan 114 or approved equivalent. The improvements shall be completed to the satisfaction of the Department of Transportation or the applicant shall obtain an approved improvement agreement with security, prior to the filing of the Final Map.
47. **Roadway Slopes:** Pursuant to DISM Sec 3.B.9 and Design Std Plan 101B, the gradient of any street shall not exceed 15%. Roadway slopes shall be indicated on the improvement plans to show compliance with this requirement.
48. **Off-site Easements:** Applicant shall provide all necessary recorded easements for the drainage, slope and road improvements crossing the property line prior to approval of the improvement plans.
49. **Maintenance Entity:** The proposed project must form an entity for the maintenance of any shared or common: private roads, parking facilities, landscaping, signs and drainage facilities. If there is an existing entity, the property owner shall modify the document if the current document does not sufficiently address maintenance of the roads, parking facilities, landscaping, signs, and drainage facilities of the current project. DOT shall review the document forming the entity to ensure the provisions are adequate prior to filing of the Final Map.
50. **Driveway Cuts:** Subdivision improvements shall include rough grading of driveways for all lots with street cuts or fills along the frontage of six feet or more difference in elevation, or as found necessary for reasonable access by the County Engineer. Construction of said driveways shall conform to the Design and Improvements Standards Manual and the Encroachment Ordinance. Attention should be given to the minimum required sight distance at all driveway encroachments. As an alternative, a Notice of Restriction shall be filed

against all downhill lots with fill in excess of 6 feet which allows structural driveway access only.

51. **Performance Bond:** The construction of all required improvements shall be completed with the presentation of the final map to the Planning Director before presentation of the final map to the Board of Supervisors for its approval. For improvements not completed, the subdivider shall provide a 100 percent performance surety and a 50 percent labor and materialmen surety by separate bond, cash deposit, assignment, or letter of credit from a financial institution. For improvements which have been completed, the subdivider shall provide a ten percent maintenance surety in any of the above-mentioned forms. Verification of construction, or partial construction, and cost of completion shall be determined by the County Department of Transportation. The developer shall pay the traffic impact fees in effect at the time a building permit is issued for any parcel created by the subdivision.

DOT STANDARD CONDITIONS

52. **Improvement Plans and Cost Estimate:** The developer shall obtain approval of project improvement plans and cost estimates consistent with the Subdivision Design and Improvement Standards Manual from the County Department of Transportation, and pay all applicable fees prior to filing of the Final Map.
53. **Easements:** All applicable existing and proposed easements shall be shown on the project plans.
54. **Road & Public Utility Easements:** The applicant shall provide a 50 foot wide non-exclusive road and public utility easement for the on-site access roadway prior to the filing of the map. Slope easements shall be included as necessary.
55. **Signage:** The applicant shall install all necessary signage such as stop signs, street name signs, and/or "not a county maintained road" road sign as required by the Department of Transportation prior to the filing of the map. The signing and striping shall be designed and constructed per the latest version of the Manual Uniform Traffic Control Devices (MUTCD) and the California Supplement.
56. **Common Fence/Wall Maintenance:** The responsibility for, and access rights for, maintenance of any fences and walls constructed on property lines shall be included in the Covenants Codes and Restrictions (CC&Rs).
57. **Water Quality Stamp:** All new or reconstructed drainage inlets shall have a storm water quality message stamped into the concrete, conforming to the Storm Water Quality Design Manual for the Sacramento and South Placer Regions, Chapter 4, Fact Sheet SD-1. All stamps shall be approved by the El Dorado County inspector prior to being used.

58. **Construction Hours:** Construction activities shall be conducted in accordance with the County Health, Safety, and Noise Element and limited to the daylight hours between 7:00 a.m. and 7:00 p.m. on any weekday, and 8:00 a.m. and 5:00 p.m. on weekends and federal holidays.
59. **DISM Consistency:** The developer shall obtain approval (as modified by these conditions herein) of project improvement plans and cost estimates consistent with the Subdivision Design and Improvement Standards Manual (dated May 1986, revised May 1990), from the County Department of Transportation, and pay all applicable fees prior to filing of the Final Map.
60. **Road Improvement Agreement & Security:** The developer shall enter into a Road Improvement Agreement (RIA) with the Department of Transportation for all roadway, frontage, and intersection improvements. The developer shall complete the improvements to the satisfaction of DOT or provide security to guarantee performance of the RIA as set forth within the County of El Dorado Subdivision Division Ordinance, prior to filing of the Final Map.
61. **Import/Export Grading Permit:** Any import, or export to be deposited or borrowed within El Dorado County, shall require an additional grading permit for that offsite grading.
62. **Grading Permit / Plan:** If more than 50 cubic yards of earth movement are required for improvements, the applicant shall submit a site improvement/grading plan prepared by a professional civil engineer to the Department of Transportation for review and approval. The plan shall be in conformance with the County of El Dorado “Design and Improvement Standards Manual”, the “Grading, Erosion and Sediment Control Ordinance”, the “Drainage Manual”, the “Off-Street Parking and Loading Ordinance”, and the State of California Handicapped Accessibility Standards. All applicable plan check and inspection fees shall be paid at the time of submittal of improvement plans. The improvements and grading shall be completed to the satisfaction of DOT prior to occupancy clearance.
63. **Grading Plan Review:** Grading and improvement plans shall be prepared and submitted to the El Dorado County Resource Conservation District (RCD) and the Department of Transportation. The RCD shall review and make appropriate recommendations to the County. Upon receipt of the review report by the RCD, the Department of Transportation shall consider imposition of appropriate conditions for reducing or mitigating erosion and sedimentation from the project. Grading plans shall incorporate appropriate erosion control measures as provided in the El Dorado County Grading Ordinance and El Dorado County Storm Water Management Plan. Appropriate runoff controls such as berms, storm gates, detention basins, overflow collection areas, filtration systems, and sediment traps shall be implemented to control siltation, and the potential discharge of pollutants into drainages.
64. **RCD Coordination:** The timing of construction and method of revegetation shall be coordinated with the El Dorado County Resource Conservation District (RCD). If grading

activities are not completed by September, the developer shall implement a temporary grading and erosion control plan. Such temporary plans shall be submitted to the RCD for review and recommendation to the Department of Transportation. The Department of Transportation shall approve or conditionally approve such plans and cause the developer to implement said plan on or before October 15.

65. **Soils Report:** At the time of the submittal of the grading or improvement plans, the applicant shall submit a soils and geologic hazards report (meeting the requirements for such reports provided in the El Dorado County Grading Ordinance) to, and receive approval from the El Dorado County Department of Transportation. Grading design plans shall incorporate the findings of detailed geologic and geotechnical investigations and address, at a minimum, grading practices, compaction, slope stability of existing and proposed cuts and fills, erosion potential, ground water, pavement section based on TI and R values, and recommended design criteria for any retaining walls.
66. **Drainage Study / SWMP Compliance:** The applicant shall provide a drainage report at time of improvement plans or grading permit application, consistent with the Drainage Manual and the Storm Water Management Plan, which addresses storm water runoff increase, impacts to downstream facilities and properties, and identification of appropriate storm water quality management practices to the satisfaction of the Department of Transportation.

The Drainage Study must demonstrate the subject property has adequate existing and proposed storm drainage facilities. At a minimum, the drainage study, plans, and calculations shall include the following:

- a. The site can be adequately drained;
- b. The development of the site will not cause problems to nearby properties, particularly downstream sites;
- c. The on-site drainage will be controlled in such a manner as to not increase the downstream peak flow more than the pre-development 10-year storm event or cause a hazard or public nuisance. Detention shall be required if said condition is not met or demonstrate that there are no downstream impacts.
- d. The ultimate drainage outfall of the project.

Pursuant to Section 1.8.3 of the Drainage Manual, the report shall be prepared by a Civil Engineer who is registered in the State of California. A Scoping Meeting for the required drainage study between County staff and the engineer shall occur prior to the first submittal of improvement plans. The engineer shall bring a watershed map and any other existing drainage system information to the Scoping Meeting. The improvements shall be completed to the approval of the Department of Transportation prior to the filing of the final map or the applicant shall obtain an approved improvement agreement with security.

67. **Drainage (Cross-Lot):** Cross lot drainage shall be avoided. When concentrated cross lot drainage does occur or when the natural sheet flow drainage is increased by the project, it shall be contained within dedicated drainage easements, and included in the County Service Area Zone of Benefit (ZOB), Home Owners Association, or other entity acceptable to the County. Any variations shall be approved by the County Engineer. This drainage shall be conveyed via closed conduit or v-ditch, to either a natural drainage course of adequate size or an appropriately sized storm drain system within the public roadway. The site plans shall show drainage easements for all on-site drainage facilities. Drainage easements shall be provided where deemed necessary prior to the filing of the Final Map.
68. **Drainage Easements:** Pursuant to Section 4.D of the DISM, the site plans shall show drainage easements for all on-site drainage courses and facilities and shall be included on all improvement plans and / or on the Final Map.
69. **NPDES Permit:** At the time that an application is submitted for improvement plans or a grading permit, and if the proposed project disturbs more than one acre of land area (43,560 square feet), the applicant shall file a "Notice of Intent" (NOI) to comply with the Statewide General NPDES Permit for storm water discharges associated with construction activity with the State Water Resources Control Board (SWRCB). This condition is mandated by the Federal Clean Water Act and the California Water Code. A filing form, a filing fee, a location map, and a Storm Water Pollution Prevention Plan (SWPPP) are required for this filing. A copy of the Application shall be submitted to the County, prior to building permit issuance, and by state law must be done prior to commencing construction.
70. **Off-site Improvements (Security):** Prior to the filing of a final map or parcel map, the applicant shall enter into an agreement pursuant to Government Code Section 66462.5 to complete the required offsite improvements, including the full costs of acquiring any real property interests necessary to complete the required improvements. In addition to the agreement, the applicant shall provide a cash deposit, letter of credit, or other acceptable surety in the amount sufficient to pay such costs, including legal costs, subject to the approval of County Counsel.
71. **Off-site Improvements (Acquisition):** As specified in the Conditions of Approval, the applicant is required to perform off-site improvements. If it is determined that the applicant does not have or cannot secure sufficient title or interest of such lands where said off-site improvements are required, the County may, at the applicant's expense and within 120 days of filing the Final Map, acquire by negotiation or commence proceedings to acquire an interest in the land which will permit the improvements to be made, including proceedings for immediate possession of the property. In such cases, prior to filing of any final map, the applicant shall submit the following to the Department of Transportation Right of Way Unit, and enter into an agreement pursuant to Government Code Section 66462.5 and provide acceptable security to complete the offsite improvements, including costs of acquiring real property interest to complete the required improvements, construction surveying, construction management and a 20% contingency:

- a. A legal description and plat, of the land necessary to be acquired to complete the offsite improvements, prepared by a civil engineer or land surveyor.
- b. Approved improvement plans and specifications of the required off-site improvements, prepared by a civil engineer.
- c. An appraisal prepared by a certified appraiser of the cost of land necessary to complete the off-site improvements.

In addition to the agreement the applicant shall provide a cash deposit, letter of credit, or other acceptable surety in an amount sufficient to pay such costs including legal costs subject to the approval of County Counsel.

72. **Electronic Documentation:** Upon completion of the improvements required, and prior to acceptance of the improvements by the County, the developer will provide a CD to DOT with the drainage report, structural wall calculations, and geotechnical reports in PDF format and the record drawings in TIF format.
73. **TIM Fees:** The applicant shall pay the traffic impact mitigation fees in effect at the time a building permit is deemed complete.

ATTACHMENT 2

FINDINGS

**Z05-0015/TM05-1401/Malcolm Dixon Road Estates
May 13, 2010/Planning Commission Hearing**

FINDINGS FOR APPROVAL

1.0 CEQA Findings

- 1.1 El Dorado County has considered the Mitigated Negative Declaration together with the comments received and considered during the public review process. The Mitigated Negative Declaration reflects the independent judgment of the County and has been completed in compliance with CEQA and is adequate for this proposal.
- 1.2 Public Resources Code Section 21081.6 requires the County to adopt a reporting or monitoring program for the changes to the project which it has adopted or made a condition of approval in order to mitigate or avoid significant effects on the environment. The approved project description and conditions of approval, with their corresponding permit monitoring requirements, are hereby adopted as the monitoring program for this project. The monitoring program is designed to ensure compliance during project implementation.
- 1.3 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Development Services Department - Planning Services at 2850 Fairlane Court, Placerville, CA, 95667.

2.0 General Plan Findings

- 2.1 The proposed use and design conforms to the General Plan in that the parcel is located outside a community region, the proposed use and developmental density are consistent with both land use designation and floor area ratio policy and the natural resources on site will be protected pursuant to related policies in the General Plan.
- 2.2 In accordance with State law and pursuant to General Plan Policy 2.2.5.3, the County has evaluated the subject rezoning request based on the General Plan's general direction as to minimum parcel size or maximum allowable density and to assess whether changes in conditions are present that would support a higher density or intensity zoning district. The 19 specific criteria found within General Plan Policy 2.2.5.3 have been analyzed with regards to the above-referenced zone change request. Based on this analysis and the conclusions reached in the staff report, the site is found to be suitable to support the proposed density.

- 2.3 The proposed project is consistent with policies 2.1.5.1 regarding building densities, 2.2.5.21 regarding compatibility with adjoining land uses, 5.2.1.2 regarding adequate water supplies, 5.2.1.3 regarding connecting to a public water system, 5.7.1.1 regarding adequate water for fire protection, 7.3.3.4 regarding buffers and setbacks for wetlands and streams, and 7.4.4.4 regarding oak woodland preservation and mitigation.

3.0 Zoning Findings

- 3.1 The subdivision contains 8 residential, which are consistent with the required development standards for the RE-5 Zone District outlined in Section 17.28.210 of the County Zoning Ordinance.

4.0 Administrative Findings for Subdivision Map

- 4.1 **The site is physically suitable for the proposed type and density of development after rezone.**

As shown on the Tree Preservation Map (Exhibit H), adequate building areas for each lot are available considering the required wetland setbacks, tree canopy retention, zoning setbacks, and fire safe standards. As such, the site is physically suitable for the proposed type and density of development.

- 4.2 **The proposed subdivision is not likely to cause substantial environmental damage.**

The proposed subdivision is not likely to cause substantial environmental damage with the implementation of the mitigation measures identified as conditions in Attachment 1.

- 4.3 **The proposed Tentative Map, including design and improvements, is consistent with the General Plan policies and land use map after rezone.**

As proposed, the Tentative Map conforms to the Low Density Residential General Plan land use designation and applicable General Plan policies including access, tree canopy retention, water service, wetland setbacks, grading, transportation, fire protection, and wastewater disposal.

- 4.4 **The proposed Tentative Map conforms to the applicable standards and requirements of the County's zoning regulations and the Major Land Division Ordinance.**

As proposed, the Tentative Map conforms with the development standards within the Estate Residential Five-Acre (RE-5) Zone Districts and the El Dorado County Subdivision Ordinance.