



# COUNTY OF EL DORADO PLANNING COMMISSION

Building C Hearing Room  
2850 Fairlane Court, Placerville, CA 95667  
<http://www.edcgov.us/planning>  
Phone: (530) 621-5355 Fax: (530) 642-0508

Lou Rain, Chair, District I  
Dave Pratt, First Vice-Chair, District II  
Tom Heflin, Second Vice-Chair, District III  
Walter Mathews, District IV  
Alan Tolhurst, District V

Char Tim .....Clerk of the Planning Commission

---

## MINUTES

**Regular Meeting  
July 8, 2010 – 8:30 A.M.**

### 1. CALL TO ORDER

Meeting was called to order at 8:40 a.m. Present: Commissioners Rain, Pratt, Heflin, and Mathews\*; Paula Frantz-County Counsel; and Char Tim-Clerk of the Planning Commission.  
*[\*Arrived at 10:30 a.m. and took his seat on the Commission.]*

### 2. ADOPTION OF AGENDA AND ADDENDUM

**Motion: Commissioner Pratt moved, seconded by Commissioner Heflin, and carried (3-0), to adopt the agenda and addendum as presented.**

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

### 3. PLEDGE OF ALLEGIANCE

4. CONSENT CALENDAR (All items on the Consent Calendar are to be approved by one motion unless a Commission member requests separate action on a specific item.)

a. Minutes: June 24, 2010

**Motion: Commissioner Pratt moved, seconded by Commissioner Heflin, and carried (3-0), to approve the Minutes of June 24, 2010 as presented.**

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

**SPECIAL USE PERMIT**

b. **S09-0007/Smith Flat House Courtyard** update submitted by Planning Services for the required one-year review of Condition of Approval #8, approved by the Planning Commission on July 9, 2009, to ensure that the special events are not creating a nuisance to the surrounding neighborhood from excessive noise. The property, identified by Assessor's Parcel Number 048-240-14, consisting of 1.81 acres, is located on the north side of Smith Flat Road, approximately one-fourth mile east of the intersection with Broadway, in the Placerville area, Supervisorial District III. *[Project Planner: Michael Baron]*

Staff Recommendation: Receive and file

This item was pulled from the Consent Calendar by a member of the public.

Neal Spencer/resident stated that this project was an asset to the community and the only thing he hears are the cars.

Barry Batchelor/resident had no complaints on the project and not only felt it was an asset to the community but would actually like to see it utilized more.

Steve Bremer felt that there hadn't been enough events the past year to properly ascertain the noise impacts. He would like to see more noise mitigation put in place and also requested that the project be reviewed in another year for noise impacts.

Will Smith/resident is in support of the project and noted the following items that the applicants have done to mitigate noise: sound system speakers pointed to ground; paved parking lot; and existing sound barriers that include various structures, fences, embankment and masonry wall. Mr. Smith also indicated that when Point View Drive was complete, Smith Flat Road would become an access road and the noise level would invariably increase.

Bill Furtwangler/resident distributed a handout to the Commission and stated that loud noise is a concern and plays a factor in his current health issues. He voiced concern on the number of events allowed, the use of speakers, and the original noise study that had been conducted. Mr. Furtwangler requested that more time be allowed to analyze the noise impacts.

The Commission verified that no complaints had been reported to the applicant nor the County.

Cathy Conforti/applicant made the following comments:

- No concerts have been conducted;
- Have done site visits throughout neighborhood during events to evaluate the noise levels;
- Phone number has been provided to neighbors to use if they have concerns on the noise;
- Have done everything that has been requested of them; and
- No intention of providing a rock-and-roll venue as it is not consistent with the health & wellness clinic.

John Conforti/applicant made the following comments:

- Have had 20 events and all were compatible with the neighborhood – no concerts;
- Conducted site visits throughout the neighborhood on half of the events, particularly when PA systems were being used;
- Adjacent neighbors are in support of the project and have submitted letters;
- Cell phone number has been made available to all neighbors;
- Have spoken with several neighbors to get feedback on the noise levels;
- Per the recommendation of the Sound Engineer, has installed a disbursed sound system;
- Wants neighborhood to be a gathering place; and
- Have received no complaints in the past year.

County Counsel Paula Frantz informed the Commission that they had the following three options regarding Condition #8: (1) Remove it; (2) Extend the timeline; or (3) Modify it.

Commissioner Heflin voiced support in removing Condition #8 as there had been no complaints in the past year and the applicants are working with the neighbors.

County Counsel Frantz indicated that Condition #8 is a standard condition for conditional permits as it provides an opportunity for review. She stated that the type and intensity of the use usually dictates the amount of review needed. County Counsel Frantz also stated that even if Condition #8 was removed, all conditional permits can be brought back to the Commission if complaints are received that conditions are not being met.

Chair Rain stated that if there are objections to noise levels, the neighbors need to contact the applicant or the County so that it is documented because as of right now, there is no documentation regarding any complaints received.

No further discussion was presented.

**Motion: Commissioner Heflin moved, seconded by Commissioner Pratt, and carried (3-0), to take the following action: 1. Receive and file the one-year update on Condition of Approval #8 of Special Use Permit S09-0007.**

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

Mr. Baron clarified that the Commission's intent was the removal of Condition #8.

**END OF CONSENT CALENDAR**

**5. DEPARTMENTAL REPORTS AND COMMUNICATIONS – None  
(Development Services, Transportation, County Counsel)**

**6. COMMISSIONERS' REPORTS**

Chair Rain informed Claudia Wade/DOT that he had received numerous complaints regarding the DOT road repair work occurring on Scooner and Marina View in El Dorado Hills. He stated that the chip/seal work is not being steam rolled and, as a result, cars are getting chips when traveling over those roads. Ms. Wade stated that she will relay the information to the maintenance staff.

**9:00 A.M.**

**7. PUBLIC FORUM/PUBLIC COMMENT – None**

**8. VARIANCE**

**V09-0002** submitted by PAT and RENATE FRY to reduce the front-yard setback from 35 feet to 17 feet (measured from the road easement centerline), reduce the rear-yard setback from 15 feet to five feet (measured from the high water line), reduce the northern side-yard setback from five feet to zero feet, and increase the building height from 22 feet for the existing home to 27 feet six inches for the reconstruction of a single-family residence. The property, identified by Assessor's Parcel Number 021-331-04, consisting of 27,300 square feet, is located on each side of Fallen Leaf Road, approximately three miles south of the intersection with Emerald Bay Road, in the Fallen Leaf Lake area, Supervisorial District V. [*Project Planner: Jason Hade*] (Categorical Exemption pursuant to Section 15305(a) of the CEQA Guidelines)\*\*

Jason Hade presented the item to the Commission with a recommendation of approval. He stated that 5 letters of support from the public had been received; in addition, a letter of support was submitted from Commissioner Tolhurst.

County Counsel Paula Frantz provided a description on the Variance process and what the applicant was requesting.

Pierre Rivas provided information to the Commission on the 2<sup>nd</sup> structure on the property, as requested by Commissioner Heflin.

Mike Dill/Aspen Environmental Services, applicant's agent, stated that the project had been revised by removing the 3<sup>rd</sup> story and would be within the existing building footprint. He also said that they had met with the neighbors and worked with Commissioner Tolhurst when revising the project. Mr. Dill felt that the public hearing process had worked for them because at the last hearing there had been 10 letters of opposition to the project, but now the revised project had 6 letters of support.

Commissioner Pratt stated that the applicants did exactly what the Commission had requested them to do.

Chair Rain felt that it was now an outstanding project as a result of working with the community and Commissioner Tolhurst and he supported the project.

No further discussion was presented.

**Motion: Commissioner Rain moved, seconded by Commissioner Heflin, and carried (3-0), to take the following actions: 1. Find that the project is Categorically Exempt pursuant to CEQA Guidelines Section 15305(a); and 2. Approve Variance V09-0002 based on the Findings and subject to the Conditions of Approval as presented.**

**AYES: Pratt, Heflin, Rain**

**NOES: None**

**ABSENT: Mathews, Tolhurst**

This action can be appealed to the Board of Supervisors within ten (10) working days.

### **Findings**

#### **1.0 CEQA FINDINGS**

1.1 This project has been found to be Categorically Exempt from the requirements of CEQA pursuant to Section 15305(a) that allows minor alterations in land use limitations for a variance.

#### **2.0 VARIANCE FINDINGS**

2.1 *There are exceptional or extraordinary circumstances or conditions applying to the land, building, or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings or uses in the vicinity and the same zone, and have not resulted from any act of the owner or applicant.*

The existing residence to be reconstructed was built in 1927. The entire property on the lakeside of the roadway is approximately 60 feet deep, making compliance with the front and rear setback requirements nearly impossible. No further expansion into the front, rear-yard, and side-yard setbacks will occur as the residence will be reconstructed at the same location as the existing residence.

2.2 *The strict application of the provisions of the ordinance requested to be varied would deprive the applicant of the reasonable use of the land or building allowed for other land in the vicinity and the same zone.*

Approximately seven other homes within the project vicinity do not meet current front-yard setback requirements. Additionally, several other homes in the project vicinity also do not meet the current rear-yard setback requirements. There are several existing three-story homes within the Fallen Leaf Lake area and the proposed home is two stories. Requiring the applicant to comply with the Zoning Ordinance setback provisions would

deprive them of the same reasonable use of their land as the other existing homes within the project vicinity.

- 2.3 *The variance is the minimum necessary for the reasonable use of the land or building.*

The proposed location of the residence has the same front, rear-yard, and side-yard setbacks as the existing residence which is the minimum necessary for reasonable use of the site.

- 2.4 *The variance is in conformity with the intent of this article and not detrimental to the public health, safety, and welfare, or injurious to the neighborhood.*

The project was distributed to all applicable responsible agencies and no objections were raised. Comment letters received from the Fallen Leaf Lake Community Services District Fire Department and South Tahoe Public Utility District indicate that the requested variance will not interfere with their operations. Further, as part of project implementation, the applicant will be providing a new paved turnout and fire hydrant in accordance with the FLLCSDFD recommended conditions of approval in Attachment 1 enhancing public safety within the project vicinity. Public comment letters raised concerns regarding the structure's height and proximity to Fallen Leaf Road. The building's mass and height was reduced from the originally proposed 39 feet 8.5 inches to the currently proposed 27 feet six inches to address Planning Commission and public concerns. No construction will occur outside of the existing building envelope and the proposed structure's height is consistent with the maximum building height of 40 feet permitted within the TR1 zone district. Therefore, the variance, as conditioned, will not be detrimental to the public health, safety, and welfare of the neighborhood.

### **Conditions of Approval**

1. This variance is based upon and limited to compliance with the project description, the Staff Report exhibits marked as Exhibit A and B, 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:

Variance to reduce the front-yard setback from 35 feet to 17 feet (measured from the road easement centerline), reduce the rear-yard setback from 15 feet to five feet (measured from high water line), reduce the northern side-yard setback from five feet to zero feet, and increase the building height from 22 feet for the existing home to 27 feet six inches for the reconstruction of a single-family residence, as shown on the approved site plan, Exhibit A, and approved building elevations, Exhibit B.

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. All plans must be submitted for review and approval and shall be implemented as approved by the County.

**Planning Services**

2. 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.

The developer and land owner 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 variance.

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

3. Prior to issuance of any permits, the applicant shall pay all Development Services fees in full.
4. Prior to issuance of a building 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.

**Department of Transportation**

5. The variance to the setback will be allowed only within the area necessary to construct the project as listed above. All remaining portions of the property setback which are not needed for the proposed project shall remain at the current setback limited by the zone district.
6. Prior to building permit issuance, the applicant shall execute a hold harmless and indemnification agreement protecting the County from liability arising as a result of the approval of this setback variance. The form of said document shall be reviewed and approved by the County Counsel, and once approved, shall be recorded with the El Dorado County Recorder's Office. An official copy shall be sent to the Department of Transportation, South Lake Tahoe office.

**Environmental Management Department**

7. Prior to building permit issuance, a will serve letter from the Fallen Leaf Mutual Water Company shall be submitted to the Environmental Management Department.

**Fallen Leaf Lake Community Services District Fire Department (FLLCSDFD)**

8. Prior to occupancy, the applicant shall construct a paved turnout no less than 45 feet in length and 10 feet in width with at least 28 feet of full depth with tapering entrance and exit. The center of this turnout must also be situated directly across from the point or points in the new construction that come within 10 feet of the edge of the existing pavement on Fallen Leaf Road if the width of the property allows.
9. Public roads shall remain open to through traffic at all times during project construction. Obstruction of the road for longer than a 10 minute loading or unloading period is prohibited. All vehicles shall be parked so the tires are off the pavement and/or out of the main roadway.
10. Prior to occupancy, house address numbers shall be installed in an appropriate location on the house, clearly visible from the street and visible from either direction of travel. If the house is farther than 20 feet from the edge of the road, an additional set of address numbers shall be installed within 20 feet of the road. If the property has a boat dock, address numbers shall be installed at the boat dock. Numbers are to be a minimum of four inches high, reflective, and mounted on a contrasting background.
11. Prior to occupancy, the exterior materials and construction shall comply with Chapter 7A of the current California Building Code regarding flame and ember resistance construction.
12. Prior to occupancy, a six-inch drafting hydrant shall be installed within 300 feet of the new project to the satisfaction of the FLLCSDFD.
13. At least one smoke detector (installed according to manufacturer's specifications) shall be installed outside of each sleeping area and one in each room used for sleeping purposes as well as one on each floor of the building prior to occupancy.
14. Prior to occupancy, every sleeping room below the fourth story shall have at least one exterior opening for egress/rescue purposes. The openings shall be a minimum of 5.7 square feet and 20 inches wide by 24 inches high. The finished sill height of the opening shall be no higher than 44 inches from the floor. Ladder access shall be provided for sleeping rooms with window sills higher than 25 feet off the ground.
15. LPG propane installation shall be per NFPA 58 and the California Fire Code and include the following: (1) installation of the tank no less than 10 feet from the building or from any other combustible material on approved reinforced concrete slab or piers with proper winter marking poles at each end; (2) proper piping materials; (3) installation of the first stage regulator underneath the cover connected to the appropriate plumbing/piping throughout; and (4) installation of a second stage regulator shut off valve and snow protection cover where the gas line enters the building.



16. Prior to occupancy, CA PRC 4291 defensible space compliance is required to be completed to the satisfaction of FLLCSDFD.
17. At time of building permit submittal, the site plan shall reflect the relocation of the trash storage area at least five feet from the edge of the pavement of Fallen Leaf Road.

**9. SPECIAL USE PERMIT**

**a. S10-0002/Marble Valley School** submitted by MARBLE VALLEY SCHOOL (Agent: Dyana Anderly) to allow a private school for a maximum enrollment of 162 students for pre-school through 8<sup>th</sup> grade in an existing 21,478 square foot building and grade an adjacent parcel for additional parking, picnic area and ball field. The property, identified by Assessor's Parcel Numbers 117-085-22 and 117-085-23, consisting of 2.5 acres, is located on the east side of Hillsdale Circle, approximately 500 feet north of the intersection with Glenhaven Court, in the El Dorado Hills area, Supervisorial District II. *[Project Planner: Michael Baron]* (Categorical Exemption pursuant to Sections 15301(a) and 15303(a) of the CEQA Guidelines)\*\*

Mike Baron presented the item to the Commission with a recommendation of approval. He stated that no public comment had been received.

Dyana Anderly/applicant's agent thanked the staff for their quick turnaround on the project which would now allow the school to be ready for the students in the Fall. She identified various benefits to the students and the community if the project was approved.

Commissioners Pratt and Rain announced that they had conducted separate site visits.

No further discussion was presented.

**Motion: Commissioner Pratt moved, seconded by Commissioner Heflin, and carried (3-0), to take the following actions: 1. Certify that the project is Categorically Exempt from CEQA pursuant to Sections 15301(a) and 15303(a); and 2. Approve Special Use Permit S10-0002 based on the Findings and subject to the Conditions of Approval as presented.**

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

This action can be appealed to the Board of Supervisors within ten (10) working days.

**Findings**

**1.0 CEQA FINDINGS**

**1.1** This project has been found to be Categorically Exempt from the requirements of CEQA pursuant to Section 15301(a) of the CEQA Guidelines which apply to the operation,

repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. Also, for the adjacent ball field 15304 (a) Grading on land with a slope of less than 10 percent, except that grading shall not be exempt in a waterway, in any wetland, in an officially designated (by federal, state, or local government action) scenic area, or in officially mapped areas of severe geologic hazard such as an Alquist-Priolo Earthquake Fault Zone or within an official Seismic Hazard Zone, as delineated by the State Geologist.

- 1.2** 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 Division at 2850 Fairlane Court, Placerville, CA.

**2.0 SPECIAL USE PERMIT FINDINGS**

**2.1 The issuance of the permit is consistent with the General Plan;**

As proposed, the project would be consistent with the R&D General Plan Land Use Designation as defined by Policy 2.2.1.2 because the R&D Land Use Designation permits such uses where the character of an area is maintained in a campus like setting.

**2.2 The proposed use would not be detrimental to the public health, safety and welfare, or injurious to the neighborhood;**

The proposed private school and ball-field would not generate excessive noise levels or other impacts that would be detrimental to the neighborhood. Hours of operation have been established and there are no residentially zoned parcels adjacent to the project area or within the immediate vicinity.

**2.3 The proposed use is specifically permitted by special use permit pursuant to this Title.**

The R&D Zone District permits schools of this type through approval of a Special Use Permit pursuant to County Code Section 17.35.025(B).

**Conditions of Approval**

1. The project, as approved, consists of the following:

This special use permit is based upon and limited to compliance with the project description, the exhibits marked E & F and conditions of approval set forth below for APN's 117-085-22 & 117-085-23. 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.

**Project Description:** This Special Use Permit shall allow a private school for a maximum enrollment of 162 students for pre-school through 8<sup>th</sup> grade students in an existing 21,478 square foot building and grade an adjacent parcel for additional parking, picnic area and ball field.

### **Planning Services**

2. All site improvements shall conform to Exhibits E & F.
3. 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.

The developer and land owner 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 Special Use Permit.

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

4. Prior to issuance of any permits, the applicant shall pay all Development Service fees.
5. 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.
6. The applicant shall merge APN's 117-085-22 & 117-085-23 prior to final occupancy of the building.
7. All outdoor lighting shall conform to §17.14.170 and be fully shielded pursuant to the Illumination Engineering Society of North America's (IESNA) full cut-off designation. In addition, the following apply:
  - a. External lights used to illuminate a sign or side of a building or wall shall be shielded in order to prevent light from shining off the surface to be illuminated.

- b. No more than 50 percent of the parking lot lighting may remain on during hours of non-operation. Security lighting shall be designed with motion-sensor activation.
- c. Pole lights shall not exceed fifteen (15) feet in height from finished grade to the top of the pole.

Should final, installed lighting be non-compliant with full shielding requirements, the applicant shall be responsible for the replacement and/or modification of said lighting to the satisfaction of Planning Services.

**El Dorado Hills Fire Protection District**

- 8. The facility shall have an approved fire sprinkler system in accordance with NFPA-13, 2007 edition, and Fire Department requirements.
- 9. A fire alarm system shall be installed per NFPA 72, 2007 edition, and the Fire Department requirements.
- 10. This development shall install and or verify Mueller Dry Barrel fire hydrants conforming to the El Dorado Irrigation District specifications for the purpose of providing water for fire protection. The spacing between hydrants in this development shall not exceed 300 feet. The exact location of each hydrant and all fire protection system devices shall be determined by the Fire Department.
- 11. To enhance nighttime visibility, 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.
- 12. In order to provide this development with adequate fire and emergency medical response during construction, all access roadways and fire hydrant systems shall be accessible.
- 13. This development shall be prohibited from installing any type of traffic calming devices that utilize a raised bump or a lower dip section of roadway as these delay emergency response and cause excessive wear and damage to emergency equipment.
- 14. The applicant shall provide the Fire Department with a CD that contains all the CAD files for this project.
- 15. Egress and ingress are of great concern with an educational facility of this size. The fire access roadways servicing buildings shall be designed to accommodate a 40 foot inside and a 56 foot outside turning radius and loads of 75,000 pounds. A hammerhead turnaround will meet the same practical effect.
- 16. All trash enclosures shall be a minimum of 5 feet from a building wall.

17. Vehicle gate shown in plans as number 17 shall be a minimum of 20 feet ingress and egress width for emergency response vehicles.
18. Knox Box shall be provided for external entry ways and any onsite gates.

**Department of Transportation**

19. The applicant shall obtain an encroachment permit from DOT and shall construct the driveway encroachments onto Hillsdale Circle to the provisions of County Design Std 103G or approved DOT 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 initiation of any use permitted by the approval of the special use permit.

**b. S07-0002/Randal's Woodworks Cabinet Shop** submitted by RANDY RAINS to allow for the operation of a cabinet shop as a home occupation. This was conceptually approved by the Planning Commission on August 28, 2008, and is being brought back to the Planning Commission for final approval with conditions and findings. The property, identified by Assessor's Parcel Number 319-040-03, consisting of 8.11 acres, is located on the west side of Mulberry Lane, at the intersection with Green Valley Road, in the Greenstone area, Supervisorial District IV. *[Project Planner: Aaron Mount]* (Categorical Exemption pursuant to Section 15301 of the CEQA Guidelines)\*\* *[continued from 6/24/10 meeting]*

Pierre Rivas presented the item to the Commission with a recommendation of approval.

Randy Rains/applicant indicated that he had met with the Fire Department and now they were requiring him to meet a list of guidelines. Aaron Mount distributed the guidelines to the Commission for their review.

Mr. Rains provided a summary of events which had led up to today's meeting. He voiced frustration that this process, which originated from an anonymous code enforcement complaint that no longer existed, has taken 7 years and now DOT and the Fire Department have new requirements. He explained that DOT is now requiring a 30 foot easement, which would cause issues for his existing well house and fence. Mr. Rains also addressed the Fire Department's requirement for a fire hydrant despite the fact that there is an existing one close by. He stated that he could not afford the Fire Department's guidelines and if he chooses not to go through this, he will still keep the building and equipment and use them only as a hobby.

Mr. Mount stated that the "new" requirements by DOT and the Fire Department, as stated by the applicant, have actually been included in the Conditions of Approval the entire time.

Claudia Wade/DOT explained that the easement was for road maintenance and right-of-way preservation. She said that although DOT was requesting 30 feet, they would be willing to reduce it to 25 feet, which would take it to the fence line. In addition, Mr. Mount stated that the

well house, which is located on the other side of the fence and not within the easement, would be considered a non-conforming structure and would not be required to be removed.

Mr. Rains disagreed on the 25 feet not encroaching on the fence. Mr. Mount provided a parcel map identifying the property line to be 25 feet from the center line of the road. It was explained to Mr. Rains that a fence does not represent a property line and that his fence may not even be located on his property.

Gary Baldock, Diamond Springs/El Dorado Fire Protection District, stated that he became involved in the project approximately two weeks ago and the biggest issue was fire flow. He stated that since Mr. Rains' property was just outside EID's district, he had suggested placing the fire hydrant at the corner of Green Valley Road and Mulberry, which is in the EID district, thereby meeting the Fire Department's condition, but not requiring Mr. Rains' to annex into EID. Mr. Baldock said that the mitigation for the fire hydrant requirement would be requiring the building to be sprinklered.

Commissioner Pratt clarified that once the hobby became a business then the Fire Department had additional requirements. He voiced frustration and concern on the application of the rules, particularly in a rural environment. Chair Rain concurred with his statement.

Mr. Rains notified the Commission that even though he agreed with Mr. Baldock's comments on the placement of the fire hydrant, after meeting with EID, he was informed that the water line ended sooner than the corner location and it would cost approximately \$60,000 to get the water line to the corner and that did not include the cost of the fire hydrant.

Commissioner Pratt informed Mr. Rains that there was a level of rigidness with the Fire Department's requirements and that the Commission could not negotiate that. Mr. Rains again voiced frustration that the Special Use Permit was for a complaint initiated 7 years ago that no longer existed, that the rules kept changing, and although he was willing to help out the community and the Fire Department, it did not make sense to install another fire hydrant when there was an existing one close by.

In response to Commissioner Pratt's inquiry on if he wanted to move forward with the Special Use Permit, Mr. Rains indicated that he would like to continue discussions with the Fire Department on the existing fire hydrant.

Mr. Mount reminded the Commission that this was a Code Enforcement case and, at that time it was initiated, it had been a business with two employees and multiple deliveries being received on a weekly basis, which was not a legal use for a residential property.

Mr. Rivas further clarified the Code Enforcement action and the Board of Supervisors' stance on a home occupation having employees. He stated that although there were no longer any employees, Mr. Rains is still selling his products and using power tools for the business and, therefore, this would be considered an expanded home occupation.

Commissioner Pratt stated that his preference was to continue the item to a date certain in order to keep the application moving forward. He confirmed with Mr. Rains that a month would be sufficient time to meet with the Fire Department.

No further discussion was presented.

**Motion: Commissioner Pratt moved, seconded by Commissioner Heflin, and carried (3-0), to continue the item to the August 12, 2010, meeting.**

**AYES: Heflin, Pratt, Rain**

**NOES: None**

**ABSENT: Mathews, Tolhurst**

*[Clerk's Note: Commissioner Mathews arrived and took his seat on the Commission.]*

**10. GENERAL PLAN AMENDMENT/REZONE/TENTATIVE MAP**

**A10-0001/Z09-0003/TM09-1488/Breeden Estates-Leoni Road Subdivision** submitted by CHRISTINE BROWN (Agent: Carlton Engineering, Inc.) to amend General Plan land use designation from Medium-Density Residential (MDR) to Low-Density Residential (LDR); Rezone from Residential Agricultural-40 (RA-40) to Estate Residential Five-Acre (RE-5), and create 12 residential lots ranging in size from 5 acres to 12 acres. The property, identified by Assessor's Parcel Number 041-040-15, consisting of 75.7 acres, is located on the east side of Parkside Drive approximately 165 feet south of the intersection with Winding Way and Winding Way Court, in the Grizzly Flat area, Supervisorial District II. *[Project Planner: Gina Paolini]* (Mitigated negative declaration prepared)\*

Gina Paolini presented the item to the Commission with a recommendation of approval to the Board of Supervisors. She stated that a public comment letter had been received from John Allen.

There was discussion on the Agricultural Commission's recommendation to change the rezone request for Lots 9 and 10 to RE-10 for consistency with the lot size. Commissioner Pratt was in agreement with the recommendation.

Commissioner Pratt initiated discussion on various aspects of the project, which included building locations and setbacks.

Jim Wilson/Carlton Engineering, Inc., applicant's agent, commended the staff for their efforts on the project and had no issues with the Conditions of Approval as presented. He also stated that they had no objections to rezoning Lots 9 and 10 to RE-10 instead of RE-5. Mr. Wilson indicated that he had walked the property and felt that most of the building locations would be near the road.

John Allen informed the Commission that he owns the timber land adjacent to the project and he voiced concern on the impacts to his parcel and would like conditions placed that would protect it (i.e., deer fencing, building setbacks). Mr. Allen made the following comments:

- Property in family since the 1970s and has been logged throughout the years;
- Beginning a perpetual timber plan that will result in logging frequently;
- Concern on receiving complaints on his agricultural activities as this project will make his property a transitional parcel;
- Concern on impacts to his water supply;
- Requests old existing logging roads leading to his property be removed to discourage trespassing; and
- Would like mitigations placed on project that would protect his interests without overburdening the applicant.

Commissioner Pratt concurred that a delineation of the property lines was a valid point.

Pierre Rivas provided information on aspects of the project which resulted from it being located in the Grizzly Flat Rural Center (i.e., reduction in setbacks). He also informed the Commission that due to infrastructure constraints, the applicant was requesting to amend the General Plan designation from MDR to LDR. However, if there had not been any constraints, the property could have been developed into one acre lots.

Commissioner Pratt confirmed with Mr. Allen that one of his primary concerns was that up until receiving the notice for today's hearing, he had thought he had protection to conduct his agricultural activities due to his and the surrounding parcels' RA-40 zoning.

Mr. Wilson stated they would be willing to make the following concessions:

- Re-grade and re-seed the old existing logging roads;
- Install some type of fencing that would allow wildlife movement but still delineate the boundary lines
- Install "no trespassing" signs every 50-100 feet on their boundary line with Mr. Allen's property;
- Increase the setbacks to 100 feet for Lots 5, 6, and 7; and
- Agreed to have 200 foot setbacks for Lots 8, 9, and 10 as that was what they were designed for, as shown on the submitted map.

No further discussion was presented.



**Motion: Commissioner Pratt moved, seconded by Commissioner Mathews, 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; 2. Adopt the Mitigation Monitoring Program in accordance with CEQA Guidelines Section 15074(d) incorporated as Conditions of Approval; 3. Approve General Plan Amendment A10-0001 based on the Findings presented; 4. Approve Rezone Z09-0003 based on the Findings as modified: (a) Include Estate Residential (RE-10); and 5. Approve Tentative Map TM09-1488 based on the Findings and subject to the Conditions of Approval as modified: (a) Amend Condition #1 to identify Lots 9 and 10 being rezoned to Estate Residential (RE-10); (b) Amend Condition #17 to identify 200 foot building setback for Lots 8, 9, and 10; (c) Addition of three new conditions to address rear yard setbacks (Lots 5, 6, and 7), no trespassing signage/fencing (Lots 5, 6, and 7), and the removal of logging roads; and direct staff to create a rezone map identifying the location of the two zone districts.**

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

### Findings

#### **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 within the Rural Center, the proposed use and developmental density are consistent with the proposed amended land use designation 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 2.2.5.21 regarding compatibility with adjoining land uses, 5.2.1.2 regarding adequate water supplies, 5.7.1.1 regarding adequate water for fire protection, 7.3.3.4 regarding buffers and setbacks for wetlands and streams, 7.4.4.4 regarding oak woodland preservation and mitigation, and 8.1.3.1 and 8.4.1.2 requiring buffering between agriculturally zoned lands.

### 3.0 Zoning Findings

3.1 The subdivision proposes 12 residential parcels, which have been designed consistent with the required development standards for the RE-5 and RE-10 Zone Districts outlined in Sections 17.28.210 and 17.70.110 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 Waste Water Plan (Exhibit G), adequate building areas for each lot are available considering the required 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 of Approval provided within 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 as amended 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) and Estate Residential (RE-10) Zone Districts and the El Dorado County Subdivision Ordinance.

**Conditions of Approval**

1. This General Plan Amendment, Zone Change, and Tentative Map approval is based upon and limited to compliance with the project description, hearing Exhibits A-J, 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 General Plan Amendment from Medium Density Residential (MDR) to Low Density Residential (LDR) for all proposed lots. A Zone Change from Residential Agricultural-40 (RA-40) to Estate Residential Five-Acre (RE-5) is requested for proposed Lot Nos. 1-8, 11 and 12. A Zone Change from Residential Agricultural-40 (RA-40) to Estate Residential (RE-10) for proposed Lot Nos. 9 and 10. A Tentative Map to create shall be created for 12 lots ranging in size from 5 acres to 12 acres for Assessor's Parcel No. 041-040-15. The project proposes to use well water and septic facilities. No Design Waivers have been requested.

The proposed lots would conform to Table 1 below:

<b>Breeden Estates-Leone Road Subdivision Lot Details</b>		
Lot No.	Gross Lot (Acres)	Net Lot (Acres)
1	5.01	2.83
2	5.01	3.53
3	5.01	3.46
4	6.45	4.77
5	5.05	3.56
6	5.02	3.53
7	5.49	3.64
8	5.60	3.62
9	10.68	4.80
10	11.76	3.38
11	5.01	3.20
12	5.61	4.00

The oak removal as part of construction of the on-site access road and future residential development of the site shall comply with Table 2 below:

Total Oak Canopy to Be Removed (acres)	Canopy Removed for Road Improvements (acres)	Canopy Removed for Leach Field (acres)
0.73	0.31	0.42

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.

**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:

2. If construction activities are scheduled to occur within the typical breeding season for raptors (March 1 through August 31), on-site pre-construction surveys for raptors and their nests shall be conducted by a qualified biologist no more than 30 days prior to initiation of the proposed development activities. The survey results shall be submitted to the California Department of Fish and Game (CDFG) and Planning Services prior to issuance of a grading permit. If active raptor nests are found on or immediately adjacent to the site, consultation must be initiated with CDFG to determine appropriate avoidance measures. The applicant shall follow the appropriate avoidance measures issued by CDFG, and no construction activities shall occur on the project site until the avoidance measures are issued and implemented. If no active nests are found, then no further action is required, and construction activities may proceed upon approval by Planning Services (MM BIO-1).

*Timing/Implementation: Planning Services shall verify that the above measure has been incorporated on the plans prior to issuance of a grading permit. Development Services shall coordinate with the applicant and/or biologist, assess the pertinent surveys/studies, and conduct on-site verification for conformance with this measure.*

**Planning Services**

3. **Hold Harmless Agreement:** 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.

The developer and land owner 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 Special Use Permit.

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

4. **Condition Compliance:** Prior to issuance of a building /grading permits 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 schedule an inspection by Planning Services prior to issuance of a building permit for verification of compliance with applicable Conditions of Approval
5. **Code Compliance:** Planning Services shall verify that prior to issuance of a building permit or commencement of any use authorized by this permit, that the applicant has complied with appropriate fire and building codes and has obtained all sign offs from appropriate agencies.
6. **Processing Fee:** Planning Services shall verify that all Development Services and Noticing fees have been paid prior to issuance of any permits.
7. **Fish and Game Fee:** Planning Services shall verify that the applicant has paid all applicable Fish and Game fees within thirty (30) days of approval of the project. The Building Permit shall not be issued until said fees have been paid.
8. **Map Time Limits:** This Tentative Subdivision Map shall expire in 36 months from date of approval unless a timely extension has been filed.
9. **Archeological Resources:** The following shall be incorporated as a note on the grading/improvement plans:

*In the event a heritage resource or other item of historical or archaeological interest is discovered during grading and construction activities, the applicant shall ensure that all such activities cease within 50 feet of the discovery until an archaeologist can examine the find in place and determine its significance. If the find is determined to be significant and authenticated, the archaeologist shall determine the proper method(s) for handling the resource or item. Grading and construction activities may resume after appropriate measures are taken or the site is determined not to be of significance.*

*In the event of the discovery of human remains, all work is to stop and the County coroner shall be immediately notified pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.98 of the Public Resources Code. If the remains are determined to be Native American, the Coroner must contact the Native American Heritage*

*Commission within 24 hours. The treatment and disposition of human remains shall be completed consistent with guidelines of the Native American Heritage Commission.*

Planning Services shall verify the inclusion of this notation on the grading plans prior to the issuance of a grading permit.

10. **Oak Woodland Mitigation:** The developer shall pay the mitigation in-lieu fee or provide a replacement plan for all oak canopy removed as part of project implementation (Total 0.7 acres). The mitigation fee shall be paid at a 1:1 ratio as required by the Oak Woodland Management Plan and shall be based on the fee established by the Board of Supervisors. Based on existing oak canopy coverage, the applicant shall mitigate at a 1:1 ratio for 0.57 acres, and a 2:1 ratio for 0.13 acres. The applicant shall provide to Planning Services proof of payment of the mitigation in-lieu fee or replacement plan, prepared by a licensed arborist, prior to issuance of a grading permit or removal of any oak trees.
11. **Park In-lieu Fees:** Pursuant to Section 16.12.090, the subdivision is subject to parkland dedication in-lieu fees. The applicant shall submit a request for Park-in-Lieu fee appraisal to Planning Services, with a check for \$150.00 made out to the El Dorado County Assessor; upon completion of appraisal, the applicant must pay the park fee, pursuant to Section 16.12.090 of the El Dorado County Subdivision Ordinance, to the Development Services Department, and shall submit the receipt to El Dorado County Planning Services with the Final Map application.
12. **Off-site Acquisition:** Where the subdivider is required to make improvements on land which neither the subdivider nor the County has sufficient title or interest to make such improvements, prior to filing of any final map or parcel map, the subdivider shall submit to the Development Services Director for approval:
  - a. A legal description prepared by a civil engineer or land surveyor of the land necessary to be acquired to complete the off-site improvements.
  - b. Improvement plans prepared by a civil engineer of the required off-site improvements.
  - c. An appraisal prepared by a professional appraiser of the cost of land necessary to complete the off-site improvements.

Prior to the filing of the parcel map, the subdivider shall enter into an agreement pursuant to Government Code Section 66462.5 to complete the required off-site improvements including the full costs of acquiring any real property interests necessary to complete the required improvements.

In addition to the agreement, the subdivider 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.

13. **CC & R's:** Prior to final map filing, CC & R's shall be submitted and reviewed by Planning Services.
14. **Hours of Construction:** 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.  
  
Planning Services shall verify the inclusion of this notation on the grading plans prior to the issuance of a grading permit.
15. **School Fees:** The developer shall pay all applicable school fees at the time of issuance of building permits for individual lots.
16. **Fire Safe Plan:** A fire safe management plan, acceptable to the Pioneer Fire District and the California Department of Forestry, shall be prepared and implemented. A letter of compliance with this condition shall be submitted by the appropriate agency and Planning Services prior to filing the Final Map.
17. **Agricultural Setback:** The Final Map shall provide a ~~50~~200-foot building setback for non-compatible structures for Parcel Nos. 8, 9, and 10. Development Services shall verify the setback on the Final Map prior to filing of the map.
18. **Rear Yard Setbacks:** The Final Map shall provide a 100-foot rear yard building setback for Parcel Nos. 5, 6, and 7. Development Services shall verify the setback on the Final Map prior to filing of the map.
19. **No Trespassing Signage/Fencing:** The applicant shall install no trespassing signs and twisted wire fencing along the rear property line of proposed Parcel Nos. 5, 6, and 7. Development Services shall verify the installation of all signage and fencing prior to the issuance of a grading permit.
20. **Logging Roads:** The applicant shall remove the logging roads and re-vegetate the area to a natural state. Development Services shall verify the plantings of seedlings and trees prior to filing of the Final Map.

**Pioneer Fire Protection District and CAL FIRE**

- ~~18~~21. **Fire Code:** The project applicant shall comply with all Pioneer Fire Code requirements.
- ~~19~~22. **Street Address:** Address numbers shall be placed in such a position to be plainly visible and legible from the road fronting the property. Numbers shall be four (4) inches tall, contrast with their background, and be positioned so that the bottom of the numbers is a minimum of:

- a. Eight (8) inches above final grade for residences less than 2,999-feet of elevation
  - b. Twelve (12) inches above final grade between 3,000 and 3,999-feet of elevation
  - c. Eighteen (18) inches above final grade between 4,000-feet elevation
- ~~20~~23. **Storage:** Vehicle parking and material storage during construction shall not restrict or obstruct streets, roads, and/or access/egress to any structure. A minimum twelve (12) feet travel lane for emergency vehicle access shall be maintained clear and unobstructed at all times including during construction.
- ~~21~~24. **Roadway Access:** An approved access roadway pursuant to the Pioneer Fire Code shall be installed prior to any combustible construction on the site. The road shall be a minimum of twenty (20) feet in width and capable of supporting an imposed load of at least 75,000 pounds. The road must be an all-weather driving surface maintained free, clear, and unobstructed at all times. In the Pioneer Fire Protection District, grades shall not exceed 7 percent; however, 10 percent may be permitted on straight sections. Roadway grades greater than 12 percent shall be chip-sealed, paved, or have a concrete surface above 3,000 feet of elevation. Dead-end access roadways exceeding 150 feet in length shall be provided with an approved turn-around. Gates on access roadways shall have a key safe (knox box) installed for emergency vehicle access, and egress/access shall not be impeded by vegetation, topography, and /or snow. District approval for any roadways and gates shall be granted before ground disturbance.
- ~~22~~25. **Driveway Access:** An approved access driveway pursuant to the Pioneer Fire Code shall be installed prior to any combustible construction on the site. Each driveway shall serve no more than two (2) buildings. The driveway shall be a minimum of twelve (12) feet in width and capable of supporting an imposed load of at least 75,000 pounds. The driveway must be an all-weather driving surface maintained free, clear, and unobstructed at all times. In the Pioneer Fire Protection District, grades shall not exceed 16 percent; however, 20 percent may be permitted on straight sections. Driveway grades greater than 20 percent shall be chip-sealed, paved, or have a concrete surface. Dead-end access driveways exceeding 150 feet in length shall be provided with an approved turn-around. Gates on access driveways shall have a key safe (knox box) installed for emergency vehicle access, and egress/access shall not be impeded by vegetation, topography, and/or snow. District approval for any driveways and gates shall be granted before ground disturbance. A driveway connecting to a County maintained road requires a County issued encroachment permit.
- ~~23~~26. **Fuel Reduction:** State Public Resource Code 4291 commonly referred to as the 100 feet and 30 feet minimum fuel reduction, egress/access standard, water supply, and/or fire safe regulations shall be required prior to combustible construction.
- ~~24~~27. **Spark Arrester:** Spark arrester(s) shall be installed on chimney(s) to comply with the 2007 California Fire and Mechanical Code.



- ~~25~~28. **Fire Detection:** If a monitored fire detection system is installed, it shall meet NFPA 72. An approved key box (Knox box) shall be installed, with the appropriate keys, for emergency Fire District access in a location approved by the Fire District.
- ~~26~~29. **Water Supply:** If the structures exceed the maximum square footage allowed pursuant to the Pioneer Fire Code, but the existing municipal fire hydrant system satisfies fire flow requirements, no additional water supplies shall be required. If the structures exceed the maximum square footage allowed pursuant to the Pioneer Fire Code, an approved fire protection water supply shall be readily available to the building prior to combustible construction.
- ~~27~~30. **Fire Sprinkler System:** An approved automatic fire sprinkler system shall be installed throughout the building pursuant to the Pioneer Fire Code and the requirements of NFPA 13. Residential fire sprinkler systems shall be annually tested and maintained pursuant to NFPA requirements. An approved Fire District connection, fire sprinkler flow bell, and key safe (Knox box) shall be installed in an approved location visible to approaching firefighters and the entire system shall supervised by an approved alarm system. Two (2) sets of sprinkler system plans shall be submitted to the Pioneer Fire Protection District for approval and a permit shall be required prior to installation of any fire alarm system equipment. Inspections of fire detection systems by the Fire Prevention Officer or an appointee shall be required.
- ~~28~~31. **Site Map:** An 8-8 1/2 by 11-inch color coded site map of the project shall be provided to the Fire District. The site map shall show the locations of gas shut-offs, power shut-offs, fire sprinkler riser rooms, fire department connections, alarm panels or keypads, key safes (Knox boxes), access doors and windows, stairways, and any additional Fire District requirements.
- ~~29~~32. **Final Inspection:** Final inspections of all Fire District required installations by the Fire Prevention Officer or an appointee shall be required.
- ~~30~~33. **Road Widths:** Roads A and B shall be a minimum road width of 20 feet pursuant to the California Fire Code (2007 California Fire Code, Appendix D).
- ~~31~~34. **Turnarounds:** Dead end roads shall have a turnaround constructed at its terminus (Article 2. Emergency Access, Section 1273.09(c) of the Fire Safe Regulations and 2007 California Fire Code, Appendix D).
- ~~32~~35. **Turnouts:** Driveways exceeding 150 feet in length, but less than 800 feet in length, shall provide a turnout near the midpoint of the driveway. Where the driveway exceeds 800 feet, turnouts shall be provided no more than 400 feet apart (Article 2. Emergency Access, Section 1273.10 (a) of the Fire Safe Regulations).
- ~~33~~36. **Signage:** A sign identifying traffic access or flow limitations, including dead-end roads, shall be placed at the intersection preceding the traffic access limitation (Article 3. Signing and Building Numbering, Section 1274.06 of the Fire Safe Regulations).

3437. **Setbacks:** All parcels one (1) acre and larger shall provide a minimum 30 foot setback for buildings and accessory building form all property lines and/or the center of the road (Article 5. Fuel Modification Standards, Section 1276.01(a) of the Fire Safe Regulations).
3538. **Notice of Exemption:** The property owner shall submit a Notice of Exemption from Timberland Conversion Permit for Subdivision RM-91 (14CCR§1104.2)
- a. This exemption is applicable where a Tentative Subdivision Map (Major subdivision) has been approved by local government in conformance with the Subdivision Map Act.
  - b. Following submittal, CAL FIRE will confirm in writing that the project is exempt from the requirement to obtain a Timberland Conversion Permit.
  - c. The property owner must obtain CAL FIRE approval of a Timber Harvesting Plan (THP) prior to timberland conversion operations.
3639. **Timberland Permit:** A new Timberland Harvest Plan shall be submitted for the area to be subdivided. THP No. 4-08-008-ELD covered the project area, but was signed off by CAL FIRE as Stocked and Complete; therefore a new Timberland Harvest Plan shall be submitted for the project area prior to filing the final map.
3740. **Slash:** Any additional slash generated by Timber Harvest Operations but not required to be treated under the California Forest Practice Rules and Regulations shall be treated as a condition of the Wildland Fire Safe Plan. The additional slash shall be treated either by piling and burning, hauling off-site and/or chipping.

**Grizzly Flats Community Services District**

3841. **Water Standby Fee:** The applicant is required to comply with Resolution 2008-1, passed by the Grizzly Flats Community Services District Board of Directors on January 22, 2008. It is the duty of the Grizzly Flats Community Services District to provide water to all eligible parcels within its service boundary on a fair and equal basis. All parcels in the Grizzly Flats area are charged an annual standby fee in the amount of \$48. If a single parcel is split, the new parcels are required to share equally in the payment of the standby fee(s) that were to be paid by all parcels. Any parcel to be eligible for water service shall be current in its payment for the past initial formation fee and/or standby fee(s), based on when such missed fees were due and payable with six (6) percent annual interest. The property identified by Assessor's parcel Number 041-040-15 has been assessed and paid the GFCSD's annual standby fee. All new parcels created from this property shall become current in their payment of the Standby Fee. See the calculation of fees and interest below:

<b>Year</b>	<b>Standby Fee</b>	<b>Interest @ 6% (previous year + current year x 6%)</b>	<b>Total Due (previous year + current year + interest)</b>
1988	36.00	2.16	38.16
1989	48.00	5.17	91.33
1990	48.00	8.36	147.69
1991	48.00	11.74	207.43
1992	48.00	15.33	270.76
1993	48.00	19.13	337.88
1994	48.00	23.15	409.03
1995	48.00	27.42	484.46
1996	48.00	31.95	564.40
1997	48.00	36.74	649.15
1998	48.00	41.83	738.98
1999	48.00	47.22	834.20
2000	48.00	52.93	935.13
2001	48.00	58.99	1,042.12
2002	48.00	65.41	1,155.52
2003	48.00	72.21	1,275.73
2004	48.00	79.42	1,403.16
2005	48.00	87.07	1,538.23
2006	48.00	95.17	1,681.40
2007	48.00	103.76	1,833.17
2008	48.00	112.87	1,994.04
2009	48.00	122.52	2,164.56
2010	48.00	132.75	2,345.31

**Surveyor’s Office**

**3942. Survey Monuments:** 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.

**4043. Road Name Petition:** 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. Proof of any signage required by the Surveyor’s Office shall be provided to the Surveyor’s Office prior to filing the Final Map.

**El Dorado County Resource Conservation District**

**4144. Erosion Control Plan.** 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.

**El Dorado County Department of Environmental Health and Air Quality Management District**

- 4245. **Water:** The applicant shall provide a reliable water source for each proposed parcel that meets the requirements of EDC policy #800-02. A shared well system shall be prohibited for proof of water for the creation of new lots. Where feasible, wells supplying water for domestic residential use should be located on the parcel being served. Wells serving residential parcels may be located on other residential parcels or on designated open space lots within the subdivision, provided that such well and pipeline improvements are located within a designated easement appurtenant to the parcel being served by the well. Easements for well and pipeline improvements on servient parcels shall be shown on all Final Maps prior to approval and recordation.
  
- 4346. **Fugitive Dust:** Project applicant shall adhere to Rules 223 and 223.1 during construction. The applicant shall submit a Fugitive Dust Plan Application with appropriate fees to the District and receive approval by the District prior to the issuance of a grading permit.
  
- 4447. **Cutback and Emulsified Asphalt:** Project construction shall adhere to District Rule 224 Cutback and Emulsified Asphalt Paving Materials.
  
- 4548. **Rule 300 Open Burning:** 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.
  
- 4649. **Rule 215 Architectural Coatings:** The project construction shall adhere to District Rule 215 Architectural Coatings.

**El Dorado County Department of Transportation**

**PROJECT-SPECIFIC DOT CONDITIONS:**

- 4750. **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 map: (the requirements outlined in Table 1 are minimums)

<b>Table 1</b>					
<b>ROAD NAME</b>	<b>DESIGN STANDARD PLAN</b>	<b>ROAD WIDTH*</b>	<b>RIGHT OF WAY</b>	<b>DESIGN SPEED</b>	<b>EXCEPTIONS/ NOTES</b>
Road A	Std Plan 101C	20 ft with 10 ft shoulders on either side	50 ft	25 mph	Because this project is located above 3,000 feet in elevation, it shall require a minimum structural section of 2.5" AC on

					6" AB-
Road B	Std Plan 101C	20 ft with 10 ft shoulders on either side	50 ft	25 mph	Because this project is located above 3,000 feet in elevation, it shall require a minimum structural section of 2.5" AC on 6" AB-

\* Road widths are measured from edge of pavement to edge of pavement.

\*\* Non-exclusive road and public utility easements included

**4851. Roadway Slopes:** DISM Sec 3.B.9 requires the gradient of any street above 3,000 feet elevation shall not exceed 10% for major or minor land divisions. Additionally, snow storage areas should be included to provide room for snow removed from project roadways. 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 map.

**4952. Offer of Dedication:** The applicant shall irrevocably offer to dedicate rights-of-way as indicated in Table 1 above for Road A and Road B prior to the filing of the map. These offers will be rejected by the County.

**5053. Dead End Roads:** Pursuant to Article 2, Section 1273.09 of the SRA Fire Safe Regulations, the maximum length of a dead-end road, including all dead-end roads accessed from the dead-end road, shall not exceed the following cumulative lengths, regardless of the numbers of parcels served:

- a. parcels zoned for less than one acre-----800 feet
- b. parcels zoned for 1 acre to 4.99 acres-----1320 feet
- c. parcels zoned for 5 acres to 19.99 acres -----2640 feet
- d. parcels zoned for 20 acres or larger -----5280 feet

All lengths shall be measured from the edge of the roadway surface at the intersection beginning the road to the end of the road at its farthest point. Where a dead-end road crosses areas of differing zoned parcel sizes, requiring different length limits, the shortest allowable length shall apply. The lengths of all dead-end roads shall be graphically depicted and identified on the site and improvements plans prior to the filing of the map.

**5154. Turnaround:** The applicant shall provide a turnaround at the end of the onsite dead-end roadways consistent with 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 map.

**5255. Encroachment Permit:** The applicant shall obtain an encroachment permit from DOT for all required roadway improvements within the County right of way. The roadway

connection from Road A onto Winding Way shall be constructed consistent with **Design Std Plan 103C**. 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 map.

5356. **Off-site Easements:** Applicant shall provide all necessary recorded easements for any drainage, slope and road improvements crossing the property line prior to approval of the improvement plans.

**DOT STANDARD CONDITIONS**

5457. **Easements:** All applicable existing and proposed easements shall be shown on the project plans.
5558. **Road & Public Utility Easements:** The applicant shall irrevocably offer to dedicate a non-exclusive road and public utilities easements for the on-site access roadways as indicated in Table 1 above prior to the filing of the map. Slope easements shall be included as necessary.
5659. **Signage:** The applicant shall install all necessary signage such as stop signs, street name signs, and/or "not a county maintained 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 California Manual Uniform Traffic Control Devices (MUTCD).
5760. **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 map.
5861. **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).
5962. **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.
6063. **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.

6164. **DISM Consistency:** 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.
6265. **Subdivision Improvement Agreement & Security:** The developer shall enter into a Subdivision Improvement Agreement (SIA) with the Department of Transportation for all onsite roadway, drainage infrastructure, grading, etc. The developer shall complete the improvements to the satisfaction of DOT or provide security to guarantee performance of the SIA as set forth within the County of El Dorado Subdivision Division Ordinance, prior to filing of the map.
6366. **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.
6467. **Grading Permit / Plan:** The applicant shall submit a site improvement/grading plan prepared by a professional civil engineer to the DOT 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 or the applicant shall obtain an approved improvement agreement with security, prior to the filing of the map.
6568. **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.
6669. **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.

6770. **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.

6871. **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.

6972. **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.

- ~~70~~73. **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.
- ~~71~~74. **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.
- ~~72~~75. **Off-site Improvements (Security):** Prior to the filing of a final 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.
- ~~73~~76. **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.

**7477. 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.

**7578. TIM Fees:** The applicant shall pay the traffic impact mitigation fees in effect at the time a building permit is deemed complete.

## **11. ORDINANCE AMENDMENT**

**OR10-0001/Grading Ordinance** initiated by EL DORADO COUNTY. Proposed amendment to County Ordinance, Title 15.14 – Grading, Erosion, And Sediment Control (e.g. Grading Ordinance), addresses a change by increasing the required permit threshold from 50 cubic yards to 250 cubic yards. The Grading Ordinance regulates grading within the unincorporated area of El Dorado County. Its purpose is to safeguard life, limb, health, property and public welfare, and prevent the pollution of watercourses. The Grading Ordinance ensures that the intended use of a graded site is consistent with the El Dorado County General Plan, any Specific Plans adopted thereto, the adopted Storm Water Management Plan, California Fire Safe Standards and applicable El Dorado County ordinances including the Zoning Ordinance and the California Building Code. All grading activity, regardless if a permit is required, is mandated to comply with the Grading Ordinance and all other related codes and ordinances including requirements to avoid or mitigate any potentially significant effects of the graded site. [*Project Planner: Shawna Purvines*] (Negative Declaration prepared)\*

Shawna Purvines presented the item to the Commission with a recommendation of approval to the Board of Supervisors.

No further discussion was presented.

**Motion: Commissioner Mathews 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; and 2.**

**Approve Ordinance OR10-0001 amending the Grading, Erosion and Sediment Control Ordinance, Section 15.14 of the County Code, with the revised language as presented based on the Findings as presented.**

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

**Findings**

Based on the review and analysis of this project by staff and affected agencies, and supported by discussion in the staff report and evidence in the record, the following findings should be made:

**1.0 CEQA Findings**

- 1.1 El Dorado County has considered the Negative Declaration together with the comments received during the public review process. The Negative Declaration reflects the independent judgment of the Board of Supervisors and has been completed in compliance with CEQA and is adequate for this proposal.
- 1.2 No significant impacts to the environment as a result of this project were identified in the initial study.
- 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 ordinance amendment is consistent with applicable General Plan policies, specifically Policy 7.1.2.2 which stipulates all discretionary and ministerial projects that require earthwork and grading, including cut and fill for roads, shall be required to minimize erosion and sedimentation, conform to natural contours, maintain natural drainage patterns, minimize impervious surfaces, and maximize the retention of natural vegetation.

**3.0 California Building Code**

- 3.1 The proposed ordinance amendment is consistent with applicable Building Codes currently adopted and applied by the County Building Department, specifically Appendix J, Section J103 of the 2007 California Building Code which stipulates when a grading permit shall be required.

*[Clerk's Note: Draft Ordinance Amendment to Chapter 15.14; El Dorado County Grading, Erosion, And Sediment Control Ordinance, as recommended by the Commission, is attached as a separate document at the end of the minutes.]*

12. GENERAL PLAN IMPLEMENTATION

**Progress Report on the Integrated Natural Resources Management Plan (INRMP).** Report on the progress of Phase I of the INRMP, implementing General Plan Policy 7.4.2.8 and Implementation Measures CO-M and CO-U. [*Contact: Peter Maurer*]

Peter Maurer provided a status report on the INRMP. He gave a PowerPoint presentation and stated that the maps shown were also available on-line.

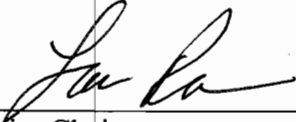
Chair Rain commended staff for the significant amount of information gathering.

**No action taken.**

13. ADJOURNMENT

Meeting adjourned at 11:53 a.m.

APPROVED BY THE COMMISSION  
Authenticated and Certified:



---

Lou Rain, Chair



OR10-0001 – As recommended by the Planning Commission on July 8, 2010

## Chapter 15.14

# EI DORADO COUNTY GRADING, EROSION, AND SEDIMENT CONTROL ORDINANCE

Table of Contents		
Article	Section	Page No.
I	Introduction	1
II	Permit processing	5
III	Improvement security	8
IV	Enforcement	9

### ARTICLE I. INTRODUCTION

Section 15.14.100 Title: This Chapter shall be known as the Grading Ordinance of the County of El Dorado.

Section 15.14.110 Purpose and scope: This Chapter is enacted for the purpose of regulating grading within the unincorporated area of El Dorado County to safeguard life, limb, health, property and public welfare; to avoid pollution of watercourses; and to ensure that the intended use of a graded site is consistent with the El Dorado County General Plan, any Specific Plans adopted thereto, the adopted Storm Water Management Plan, California Fire Safe Standards and applicable El Dorado County ordinances including the Zoning Ordinance and the California Building Code.

This Chapter establishes the administrative procedures for issuance of permits; and provides for approval of plans and inspection of grading construction. This Chapter is not intended to supersede or otherwise preempt any applicable local, state, or federal law or regulation. Where conflicts may occur between this Chapter and such laws or regulations, the most restrictive shall apply.

Section 15.14.120: Administrative Authority: This ordinance shall be implemented and enforced by the County agency or agencies granted administrative and enforcement authority by the Board of Supervisors of the County of El Dorado. For purposes of this ordinance, the term "Director" refers to a chief administrative officer (i.e. department head) of an agency identified as having administrative and enforcement authority. The term "Director" also refers to those persons authorized by a chief administrative officer to implement and enforce the provisions of this ordinance.

Section 15.14.130: Applicability: A grading permit issued by the Director is required for all grading activities in the unincorporated area of El Dorado County, including underground

*Section references corrected*

excavations associated with human occupancy, and agricultural grading activities that convert undisturbed vegetation to agricultural cropland, unless the proposed activities are exempt from this requirement pursuant to Section 15.14.140 of this chapter.

**Section 15.14.140: Exemptions:** The following categories of grading projects are exempt from the requirement of obtaining a grading permit except where such grading would create a cut or fill that could potentially endanger any structure intended for human or animal occupancy, threaten the stability of any public road, or obstruct any watercourse or drainage conduit. Projects located in the Tahoe Basin are not eligible for the exemptions listed below pursuant to Section 15.14.150, "Tahoe Basin special restrictions".

Exempt projects shall comply with all other requirements of this Chapter, CEQA, the County Storm Water Management Plan (SWMP) and all other relevant codes and ordinances.

- A. Single family dwellings and accessory structures that conform to all of the following design parameters:
  - 1. The volume of graded material is less than ~~50~~250 cubic yards.
  - 2. All cuts are less than five feet in height.
  - 3. All fills are less than three feet in height.
  - 4. The area of soil disturbance is less than 10,000 square feet.
  - 5. No potentially unstable slopes or areas subject to erosion are created, as determined by the Director.
  - 6. Grading activities do not encroach into septic effluent disposal areas.
  - 7. Drainage is not directed into a septic effluent disposal area.
  - 8. Fills are not intended for support of structural improvements, including flatwork concrete, driveways, roads, and buildings.
  - 9. The grading activities would not alter previously placed erosion control materials or drainage facilities.
  
- B. Multi-family residential or commercial/industrial projects that conform to all of the design parameters in Section 15.14.140.A above and for which a waiver of the requirement for a grading permit has been authorized by the Director.
  
- C. Grading that conforms to all of the design parameters in Section 15.14.140.A above necessary to conduct soil, geotechnical, geological, or environmental studies by engineers, geologists, environmental health specialists or soil scientists in which the disturbed areas are subsequently restored to substantially the pre-existing condition.
  
- D. Grading done under the supervision of a County agency for which the Board of Supervisors is the controlling body, or a public agency governed by an elected Board of Directors.
  
- E. Excavation and placement of fill associated with the installation, maintenance, repair or replacement of facilities for the production, generation, storage, treatment, or transmission of water, wastewater (including recycled water), or electrical energy by a utility company regulated by the California Public Utilities Commission, a public agency governed by an elected Board of Directors, an agency of the State of California or an agency of the United States of America.

- F. Excavations for the foundation of a building or structure where the construction of such building or structure has been authorized by a Building Permit issued by the County.
- G. Trenching and grading incidental to the construction or installation of county-approved underground pipelines, septic tank disposal fields, conduits, electrical or communication facilities, and drilling or excavation for approved wells or post holes.
- H. Grading in accordance with plans and specifications incorporated into an approved surface mining permit, reclamation plan, or solid waste facilities permit.
- I. Grading involving the ongoing operations of a vested mining facility that is conducted in conformance with an approved reclamation plan.
- J. Maintenance of existing firebreaks and roads to keep the firebreak or road substantially in its original condition.
- K. Routine cemetery excavations and fills.
- L. Excavation within the public Right-of-Way under the authority of an Encroachment Permit issued by the County.
- M. Installation of miscellaneous fills, such as landscape fills, that contain less than ~~50~~250 cubic yards of material and conform to the design parameters listed in Section 15.14.140.A of this Chapter.
- N. Construction of miscellaneous cuts that involve less than ~~50~~250 cubic yards of excavation and conform to the design parameters listed in Section 15.14.140.A of this Chapter.
- O. Agricultural grading activities that convert less than one acre of undisturbed vegetation to agricultural cropland.
- P. Agricultural grading or other practices, including fuel reduction and fire protection, that do not substantially change the natural contour of the land and that use "best management practices" as recommended by the County Agricultural Commission and adopted by the Board of Supervisors.

**Section 15.14.150 Tahoe Basin special restrictions:**

- A. The exemptions listed in Section 15.14.140 above are not applicable in the Tahoe Basin.
- B. All other applicable provisions of this Chapter shall apply to grading activities in the Tahoe Basin.
- C. Refer to Section E.6 of Volume III of the County Design and Improvement Standards Manual for conditions of approval applicable to the Tahoe Basin.

*Section references corrected*

**Section 15.14.160 Severability:** If any section, subsection, paragraph, subparagraph, sentence, clause or phrase of this Chapter is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Chapter; and the Board declares that this Chapter and each section, subsection, paragraph, subparagraph, sentence, clause, and phrase of this Chapter would have been adopted irrespective of the fact that one or more of such sections, subsections, paragraphs, subparagraphs, or sentences, clauses or phrases be declared invalid or unconstitutional.

## **ARTICLE II. PERMIT PROCESSING**

**Section 15.14.200 Application Submittal Requirements:** Grading plans submitted to the County in support of a permit application shall include the informational items listed in Section D, and be consistent with the design standards described in Section B, of the Grading, Erosion and Sediment Control Chapter of the Design and Improvement Standards Manual as currently adopted by the El Dorado County Board of Supervisors.

**Section 15.14.210 Permit Processing Procedures:** Applications for a Grading Permit shall be reviewed in accordance with the procedures outlined in Section E of the Grading, Erosion and Sediment Control Chapter of the Design and Improvement Standards Manual as currently adopted by the El Dorado County Board of Supervisors. Inspections shall be conducted pursuant to the procedures outlined in Section F of the Grading, Erosion and Sediment Control Chapter of the Design and Improvement Standards Manual as currently adopted by the El Dorado County Board of Supervisors.

**Section 15.14.220 Time limits on permits:**

- A The permittee shall perform and complete all the work required by the permit within time limits specified in the permit. If the work cannot be completed within the specified time, a request for an extension of time setting forth the reasons for the requested extension shall be presented in writing to the Director no later than fifteen (15) days prior to the expiration of the permit. The Director may add additional time for completion of the work. For single parcel site development, the permit shall be valid for the length of time specified in the California Building Code as amended by County ordinance.
- B If all the permit work required is not completed within the time limit specified in subsection A of this section, no further grading shall be done without renewing the permit. The Director may require specific measures to be immediately implemented to ensure stabilization of the site. A written request for renewal shall be submitted to the Director, who may require a new application and fees depending on the time between the expiration date and the renewal request, revisions in county regulations, or changed circumstances in the immediate area. Any revised plan shall be submitted to the Director for review, and any costs thereof shall be at the applicant's expense.



Section 15.14.230: Fees

- A **Fee Schedule:** The schedule of fees and costs shall be those established from time to time by duly adopted resolutions of the Board of Supervisors.
- B **Timing of payment:** As part of the application, the applicant shall provide to the County either an initial deposit of funds or a fixed fee as authorized by the adopted County fee ordinance. Fees and deposits shall be provided to the Administrative Authority as identified pursuant to Section 15.14.120 of this chapter. The authorized methods of County cost recovery are described below:

Fixed fee cost recovery: For projects eligible for the fixed fee cost recovery method, the fee shall be paid at the time of application. Fixed fees shall be allocated in equal amounts to cover the cost of plan check and the cost of construction inspection and be subject to the refund procedures specified in the applicable adopted fee ordinance or resolution.

Time and Materials cost recovery: For projects that require time and materials reimbursement, an initial deposit of funds shall be provided based upon an engineer's estimate of project cost. This deposit shall constitute an estimate of the County's costs of permit processing. During permit processing, the applicant shall be periodically billed to cover ongoing County costs when a designated portion of the deposit, as determined by the Director, has been expended. Prior to permit issuance, or on an alternate schedule approved by the Director, any unpaid County costs associated with processing of the permit shall be paid by the applicant. In addition, the applicant shall provide a second deposit to cover the costs of construction inspection. During the inspection period, the applicant shall be periodically billed to cover ongoing County costs when a designated portion of the inspection deposit, as determined by the Director, has been expended. Any outstanding County costs at the time of final inspection shall be billed to the applicant. No additional permits shall be issued on a parcel with an unpaid bill for County costs. If there is a balance due the applicant at the time of final inspection approval, a refund will be processed within 60 days and funds will be forwarded to the owner of record.

- C **Public agencies:** The fee required of public agencies may be waived pursuant to the policy of the El Dorado County Board of Supervisors.
- D **Public utilities:** Public utilities may, at the option of the Director, make payment for the above charges as billed by the Director instead of by advance deposit as required above.
- E **Violation fees:** If grading work is done in violation of this Chapter or such work is not done in accordance with an approved permit, a fee covering investigation of any violation and the inspection and plan checking of work required to correct such violation shall be charged to the violator at an amount equivalent to twice the regular permit fee. These fees are in addition to any fines or penalties imposed pursuant to sections 15.14.410 and 15.14.420 of this Chapter.

Section 15.14.250 Transfer of permit: No permit issued under this Chapter may be transferred or assigned in any manner whatsoever, without the express consent of the Director.

**Section 15.14.260 Validity:** The issuance of a permit or approval of plans and specifications shall not be construed as an approval of any violation of the provisions of this Chapter or of any other applicable law, ordinance, rule or regulation. If a permit is issued by the County due to inaccurate plans and informational materials submitted by the applicant, the Director may revoke the permit at any time.

**Section 15.14.270 Appeals:** Final decisions made by the Director, or by any applicable County commission, appeals board or decision-maker, pursuant to this Chapter may be appealed to the Board of Supervisors within ten working days of the date of such decision. The appeal to the Board shall be made in writing and shall list the specific grounds for the appeal.

**Section 15.14.280 Emergency Work:** Grading activities to protect life or property, or to implement necessary erosion control measures, may be initiated prior to obtaining a permit when a situation exists that requires immediate action. Only the volume of grading necessary to abate an imminent hazard may be performed prior to obtaining a permit. The person performing such emergency work shall notify the Director and provide photographic evidence of the scope and necessity of the work on the next full working day after the onset of the emergency situation. The person performing the emergency work or the landowner shall apply for a permit within ten (10) calendar days after the commencement of grading. The Director may order work to be stopped or restricted in scope based upon the nature of the emergency.

**Section 15.14.290: Hazards**

Grading activities that cause or have the potential to result in the following conditions, as determined by the Director, are prohibited.

- A. The creation of a hazard to public health and safety
- B. A threat to the stability or use of adjacent property.
- C. Damage to public or private utilities.
- D. Damage to a public or private roadway or other transportation facility.
- E. Damage to, or obstruction of, watercourses or drainage facilities.
- F. Substantial degradation of water quality of any water body.
- G. Damage to existing septic systems and water supply wells.

If one or more of the above conditions exist or have the potential to occur, it is the responsibility of the landowner to immediately cease all grading activities and notify the Director. The landowner shall obtain a new or revised grading permit to authorize the work necessary to eliminate the hazard. The Director may require the submission of new plans and engineering or geological reports that include professional design recommendations. The Director may require design modifications to address the identified issues. In the case of an emergency condition, the Director may authorize immediate work to occur pursuant to Section 15.14.280 of this Chapter.

### ARTICLE III. IMPROVEMENT SECURITY

Section 15.14.300 Security required: As a condition for the issuance of a permit, the Director may require the deposit of improvement security in sufficient amount deemed necessary by him to assure faithful performance of the work.

- A **Form of Security:** The security shall be in the form of cash, a certified or cashier's check, a letter of credit, or a faithful performance bond executed by the applicant and a corporate surety authorized to do business in this state. Public agencies are exempted from this provision by law.
- B **Effective period of Security-Subdivisions:** In the case of subdivisions, the improvement security shall remain in effect until final inspections have been made and all grading work and subdivision improvements have been accepted as complete by the Director.
- C **Effective period of Security-general projects:** For projects other than subdivisions, the improvement security shall remain in effect until final inspections have been made and all grading work has been accepted as complete by the Director.
- D **Maintenance security:** In addition to the improvement security, the Director may also require the deposit of maintenance security in sufficient amount deemed necessary to guarantee and maintain the grading work to assure the proper functioning of drainage systems and adequate erosion and sedimentation control. Said maintenance security shall be in the form of cash, a certified or cashier's check, a letter of credit, or a faithful performance bond executed by the applicant and a corporate surety authorized to do business in this state and shall remain in effect for a period of one year after the date of expiration of the improvement security as designated in subsections B and C of this section.
- E **Payee of Bond or other security:** Any bond or deposit required by the Director pursuant to this Chapter shall be payable to the County of El Dorado, El Dorado County Department of Transportation or Development Services Department, as applicable.
- F **Release of security:** Upon satisfactory completion of the permitted work (including any County-required monitoring period), as determined by the Director, the improvement and maintenance security deposits or bonds shall be released to the applicant. In the event of failure to complete the work in accordance with the approved plans and all permit conditions of approval, the County shall retain the security funds. The County may use these funds to complete the required work or to pay a contractor to complete the required work. Any funds remaining after the payment of all costs, including administrative and inspection costs, shall be returned to the permittee.
- G **Grading Agreement:** Where an Improvement Security Agreement is required, it shall be executed in a form approved by the Director.

Section 15.14.310 Bond for stockpiles: If required by the Director, a bond and grading agreement in conformance with Section 15.14.300 of this Chapter shall be provided to assure future stockpile removal, implementation of erosion control and restoration of the site.

## ARTICLE IV. ENFORCEMENT

Section 15.14.400 Suspension and revocation of permit: The Director may suspend or revoke a permit for good cause, subject to appeal to the Board of Supervisors. Except for erosion control facility installation and maintenance, no work shall be performed pending an appeal except as authorized by the Director.

### Section 15.14.410 Corrective work:

#### A. Abatement of Unlawfully Created Conditions:

1. Entry onto property: Pursuant to Section 15.14.440 of this Chapter, the Director may order County workers or contractors to immediately enter private property to conduct work necessary to abate hazards to public health and safety such as:
  - a. The alteration of drainage patterns that has caused, or has the potential to cause, flooding of or siltation upon any downstream property as determined by the Director.
  - b. Grading activities that cause or have the potential to cause erosion, sedimentation or landslides that could affect offsite property, sensitive environmental resources or public safety as determined by the Director.
  - c. Other emergency conditions that threaten public or private property.
2. Cost Recovery: Whenever the County expends any funds or takes any action, the County shall bill the landowner, lessee or licensee for the costs indicated herein. Pursuant to the requirements of Government Code Section 54988, the costs shall become a lien on the property, or shall be recoverable from the property owner by other legal means. All of the following costs shall be billed:
  - a. Engineering and design--professional and specialized services (private or County);
  - b. Construction - contractor's invoices or County's force account cost;
  - c. Administration and supervision overhead costs as authorized by Government Code Section 54985;
  - d. Interest accrued at the percentage rate currently authorized by the Board of Supervisors on all unpaid amounts from the date of billing.

#### B. Stop Work Orders:

1. Order and Penalty: Whenever it comes to the attention of the Director that any person is performing work in violation of the provisions of this Chapter or without a permit as required by this Chapter, or the work is in violation of the conditions of approval of an approved permit, the Director may serve upon such person a written order citing such violations and directing that person performing the work to stop work immediately. A violation of a Stop Work

*Section references corrected*

Order is a misdemeanor punishable pursuant to Section 15.14.420 of this Chapter.

2. Failure to comply: Upon failure of any person to comply with the stop work notice served pursuant to this section, the department may perform the corrective work either with County crews or by contract. All persons responsible for the violation shall be liable jointly and severally to the county for the cost of such corrective work.
3. Required actions by violator/violator: Upon receipt of such stop work notice, the person performing the work shall comply with all of the following:
  - a. Stop work immediately except as allowed under Section 15.14.280 of this Chapter.
  - b. Within twenty-four (24) hours, provide the Director with a list of remedies which can be immediately undertaken to bring the work into compliance with this Chapter. The Director shall review the proposed remedies for conformance with this Chapter, the El Dorado County General Plan and other applicable laws and regulations;
  - c. Within twenty-four (24) hours after acceptance of the proposed remedies by the Director, implement the remedies accepted by the Director as is necessary to bring the work into compliance with this Chapter. All costs associated with the remedial work are the responsibility of the violator.
4. Engineering work: Necessary engineering work required to identify and define the proper course of action, as determined by the Department of Transportation or the Development Services Department, shall be funded by the violator at no cost to the County.

**C. Notice of Noncompliance:**

1. Unpermitted work: In those cases where there has been a failure to secure the required permit or permits, or an approved permit has expired, the Director, shall record a notice of noncompliance with the County Recorder. This action shall be taken no sooner than thirty (30) days after attempting to notify the owner of the property by certified mail of the requirement of permits, the nature and extent of the identified violation and the sections of County Code that pertain to this violation. The filing of a notice of noncompliance shall be done in addition to any other legal remedy that the department may employ.
2. Notice of Cancellation: When the work has been completed under the authority of a grading permit, the Director shall record with the County Recorder and provide to the property owner of record, a notice of cancellation certifying that a permit has been issued and the notice of noncompliance has been rescinded. This shall be done at the permittee's expense.

**D. Noncompliance notification by licensed professional:** The Geotechnical Engineer, Certified Engineering Geologist or Civil Engineer retained to monitor construction shall immediately notify the Director if it is observed that the work is not being performed substantially in accordance with the approved plans and specifications. The licensed professional shall make recommendations for corrective measures that would abate the violation. Any necessary modifications of project plans shall be submitted to the Director for review and approval.

**Section 15.14.420 Penalties imposed by law:** Notwithstanding any other provisions of this code, a violation of a provision of this ordinance is considered a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment pursuant to Section 1.24.020 of the El Dorado County Code. Each day that such violation continues shall constitute a separate offense punishable as set forth herein.

**Section 15.14.430 Nonexclusive remedies:** The remedies provided in this Chapter are not exclusive, and are in addition to any other remedy or penalty provided by law. The available remedies include, but are not limited to, actions taken by El Dorado County pursuant to Section 9.02 of the County Code.

**Section 15.14.440 Right of entry:** Whenever necessary to enforce the provisions of this Chapter, the Director may enter the premises at all reasonable times in the manner provided by law to perform any duty imposed by this Chapter. If such entry is refused, the Director shall have recourse to every remedy provided by law to secure entry.

**Section 15.14.450 Liability:** Neither issuance of a permit under the provisions of this Chapter nor compliance with the provisions hereof or with any conditions created in a permit issued hereunder shall relieve any person from responsibility for damage to any person or property or impose any liability against the county for damage to any person or property.

**Section 15.14.460 Denial of other permits and inspections:** No new permit of any type shall be issued, nor any inspection services provided, for a parcel upon which an unabated violation of this ordinance exists.

\*\*\*\*\*