

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



Agenda of: November 10, 2011
Item No.: 8.c
Staff: Aaron Mount

SPECIAL USE PERMIT

FILE NUMBER: S08-0023/Grassy Run HOA Gates

APPLICANT: Grassy Run Homeowners Association

AGENT: Kenneth B. Lee

REQUEST: Special Use Permit request for three electronic security gates located at the three entrances to the Grassy Run Homeowners Association/Neighborhood.

LOCATION: On the west side of Greenstone Road, north of the intersection with U.S. Highway 50, in the Placerville area, Supervisorial District 4. (Exhibit A)

APNs: Gate 1: 319-050-40, 319-050-62
Gate 2: 319-100-11, 319-100-27
Gate 3: 319-070-02, 319-050-20, 319-050-21, 319-050-22 (Exhibit B)

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

ZONING: Estate Residential Five-Acre (RE-5) (Exhibit D)

ENVIRONMENTAL DOCUMENT: Categorically exempt pursuant to Section 15303 of the CEQA Guidelines.

SUMMARY RECOMMENDATION:

Staff recommends the Planning Commission take the following actions:

1. Find that the project is Categorically Exempt pursuant to CEQA Guidelines Section 15303; and

2. Approve Special Use Permit S08-0023 subject to the Conditions of Approval in Attachment 1, based on the Findings in Attachment 2.

BACKGROUND

Until construction of the Casino and its associated access from Highway 50, access to the Shingle Springs Rancheria was through the Grassy Run Homeowners Association (GRHA) roads. The GRHA parcels are within the Grassy Run Community Services District for road maintenance which based on the use of public funds makes the roads public roads; however the final judgment of the litigation between the GRHA and the Shingle Springs Band of Miwok Indians, the United States District Court ruled that the GRHA roads are private. Gate #1 is a part of the settlement agreement between the GRHA and the Rancheria over access to the Rancheria through the GRHA roads including Reservation Road. A metal gate with a lock currently exists on the Rancheria side of Reservation Road. It is not clear who has access to the existing gate, but it is out of the jurisdiction of the County being located on Rancheria land.

It should be noted that a few parcels within the GRHA now obtain access from US Highway 50 on the Rancheria constructed Red Hawk Parkway. Because of Red Hawk Parkway access and the existing gate on the Rancheria property on Reservation Road, these parcels within the GRHA are isolated from the rest of the GRHA. The GRHA has assured Planning staff that through the settlement agreement between the Rancheria and the GRHA that these isolated parcels have obtained legal access to a State or County maintained road.

STAFF ANALYSIS

Project Description

The applicant is requesting a Special Use Permit for three electronic gates to be located at the entrances to the Grassy Run Homeowners Neighborhood. The request is being made to restrict access to the GRHA roads which have been historically used to access the adjoining Shingle Springs Rancheria. The applicants are requesting the gates in order to restrict access to the GRHA roads from the Rancheria, US Highway 50, and Greenstone Road for traffic and security purposes.

Gate #1 would be located on Reservation Road at the access point between the Rancheria and the GRHA. A metal gate with a lock has been constructed on the Rancheria side but is out of the jurisdiction of the County. An electronic gate is being requested for the GRHA side of Reservation Road in order to ensure adequate emergency access but still restrict access between the Rancheria and the GRHA.

Gate #2 would be located at the main entrance to the GRHA parcels on Grassy Run Court. This is also the main access to the GRHA from U.S. Highway 50.

Gate #3 would be located at the northern entrance to the GRHA parcels on Buck Mountain Road.

Site Description

The Grassy Run Homeowners Association and Community Services District are a group of parcels created by a series of parcels maps. The GRHA parcels are bound by U.S. Highway 50 to the south, the Shingle Springs Rancheria to the west and south, and Greenstone Road to the east. The GRHA is at an average elevation of 1,400 feet above mean sea level. All improvements will take place within an existing road and public utility easement. The actual gates and associated infrastructure would be within the road and shoulder.

Adjacent Land Uses

	Zoning	General Plan	Land Use/Improvements
Site	RE-5	LDR	Single family residential, developed residential
North	RE-5	LDR	Single family residential, developed residential
South	RE-5/TC	LDR/AP	Single family residential, Shingle Springs Rancheria, U.S. Highway 50
East	RE-5	LDR	Single family residential, developed residential
West	RE-10/RE-5	LDR/AP	Shingle Springs Rancheria, single family residential

Land Use Compatibility: The proposed gates would have no effect on parcels adjacent to the Grassy Run HOA parcels other than the Shingle Springs Rancheria. It would allow emergency access to the Rancheria as it only has one road off of U.S. Highway 50 for ingress and egress. The Adopted Plan General Plan land use designation is applied to the Shingle Springs Rancheria as it is a sovereign nation and is not within the jurisdiction of the County.

Project Issues: Discussion items for this project include Community Services District, property owner authorization, public access, emergency access, and turnarounds.

Community Services District: The Grassy Run HOA parcels are also within the Grassy Run Community Services District (GRCS D). The GRCS D is empowered to provide road and maintenance services, but has not exercised those powers since 1997. The Community Services District’s use of public funds for road maintenance normally implies that the road system is public. In the case of the GRCS D a judgment by the United States District Court declared that the roads were private and had not been dedicated to public use. The GRCS D is in the process of dissolution of the CSD with LAFCO and the project has been conditioned to only allow construction of the gates after the dissolution is approved. This conditioned would remove any question that the proposed gates may be inhibiting public access.

Property Owner Authorization: All applications to be processed by Planning Services have the following requirement: “Letter of authorization from all property owners authorizing agent to act as applicant, when applicable”. A majority vote by the Grassy Run HOA (Exhibit L) has provided authorization for the HOA as a whole to pursue installation of gates within the HOA road right-of-ways. However, Special Use Permits must be parcel specific and a request by Planning was made to

supply letters of authorization from each property owner where the gates and associated turn-arounds would be located. Letters from all parcel owners except for two have been received by Planning. Exhibit J is a letter from the property owners of the two parcels at the main entrance to the GRHA on Grassy Run Court where proposed Gate #2 is to be located. The property owners have objected to the gate and have not given their consent to the location on their parcels; however the gate is located in the right-of-way for Grassy Run Court which is maintained by the GRHA.

Public Access: No public facilities exist within the area affected by the gates. The Grassy Run HOA roads are essentially dead-end roads with only emergency access to the Rancheria and provide residential access only and are not identified on the General Plan Circulation Map (Figure TC-1).

Emergency Access: The Diamond Springs-El Dorado Fire Protection District reviewed the project proposal for consistency with fire safe regulations. The Diamond Springs-El Dorado Fire Protection District is generally opposed to the construction of gates on residential roadways. The District commented that gates are prohibited on public roadways, but are permissible on private roadways, provided the installation meets the requirements of El Dorado County and the local Fire District having authority. The conditions of approval supplied by the Fire District are the standards designed for the installation of automatic gates/access control devices on fire apparatus access roadways. The intent is to provide adequate access for all emergency vehicles, so as to ensure public safety.

It is to be noted that the conditions specified by the Diamond Springs-El Dorado Fire Protection District may not apply to all emergency response agencies. Mutual response by state or federal agencies or private EMS companies may not have the required technology to activate the gate's electronic systems.

Turnaround: Conditions Number 6 requires turnarounds to be constructed to the specification as required by the Fire District. Because of site constraints, an exhibit was requested to show that the required turn-around did not encroach on to adjacent parcels. Exhibit G demonstrates that adequate area exists which has been approved by the Fire District. Site inspection and airphoto analysis has verified that no trees will be removed, no wetlands disturbed, or areas of greater than 30 percent slope developed in order to construct the turnarounds. A building/general grading permit would be required to construct the gates which will ensure that all grading will comply with the grading ordinance. It has been determined that no impacts will be associated with construction of the turn-around.

General Plan: The General Plan designates the subject site as Low Density Residential. This land use designation establishes areas for single-family residential development in a rural setting.

Policies 5.7.2.1, 5.7.3.1, 5.7.4.1, 6.2.3.1, and 6.2.3.2 all state as a requirement of new development, that the applicant must demonstrate that adequate access exists for emergency services including fire, sheriff, and emergency medical services. The Diamond Springs-El Dorado Fire Protection District has conditioned the project to ensure the ingress of emergency vehicles and egress of private vehicles through the proposed gates.

Conclusion: As discussed above, staff finds that the project, as proposed and conditioned, conforms to the General Plan.

Zoning: The parcels proposed to contain the gates are zoned RE-5. Chapter 17.14 contains the miscellaneous development requirements of the County Zoning Ordinance. Although gates are not specifically mentioned, Chapter 17.14 regulates fencing and encroachments into required yards. Section 17.14.155.E specifically states that “Fences shall not be permitted within road easement or County road right-of-way.” Therefore, pursuant to Section 17.28.200.E, in order to authorize other general provisions itemized in Chapter 17.14 (fences or gates in a road easement), a special use permit from the Planning Commission must be obtained.

Special Use Permit: A Special Use Permit application is required for the proposed project pursuant to Section 17.28.200.E of the Zoning Ordinance. In order to approve the project, the approving authority must find that the project would be consistent with the General Plan and would not be detrimental to the public health, safety and welfare nor injurious to the neighborhood. Based on comments received from public agencies and as discussed in the staff report, staff finds that the project would not be detrimental to the public health, safety and welfare and would not be injurious to the neighborhood. Findings for Approval have been provided in Attachment 2.

ENVIRONMENTAL REVIEW

This project has been found to be Categorically Exempt from the requirements of CEQA pursuant to Section 15303 of the CEQA Guidelines stating:

“Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures... include, but are not limited to: (e) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.”

Although not specifically listed, electronic gates are similar to the items listed in Section 15303 of the CEQA Guidelines, and are considered “small structures”.

A \$50.⁰⁰ processing fee is required by the County Recorder to file the Notice of Exemption.

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1	Conditions of Approval
Attachment 2	Findings
Exhibit A	Location Map
Exhibit B1-4.....	Assessor's Maps
Exhibit C	General Plan Land Use Map
Exhibit D	Zoning Map
Exhibit E	Gate Location Map
Exhibit F	Site Plan Gate 1
Exhibit G	Site Plan Gate 2
Exhibit H.....	Site Plan Gate 3
Exhibit I	Gate Elevation
Exhibit J	Lockhart/Ervin & Keenan Letter (APNs 319-100-11 & 319-100-27); February 22, 2010
Exhibit K.....	Sacramento Bee Gate Article Map
Exhibit L	Grassy Run Homeowners Association Resolution 09-01
Exhibit M	Brief Narrative of Grassy Run Litigation with the Tribe

ATTACHMENT 1

CONDITIONS OF APPROVAL

**Special Use Permit S08-0023/Grassy Run HOA Gates
Planning Commission/November 10, 2011**

El Dorado County Planning Services

1. This Special Use Permit approval is based upon and limited to compliance with the project description and following hearing Exhibits:

Exhibit FSite Plan Gate 1
Exhibit G.....Site Plan Gate 2
Exhibit H.....Site Plan Gate 3
Exhibit IGate Elevation

Any deviations from the project description, exhibits, or Conditions of Approval set forth below shall 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:

A Special Use Permit to allow three electronic security gates located at the entrances to the Grassy Run Home Owners Association’s access roads. The proposed gates will consist of two fifteen-foot wide vehicle entrances and a pedestrian entrance. The total gate width will be forty-one feet four inches. The gates are constructed of wrought iron.

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

2. **CSD:** The dissolution of the Grassy Run Community Services District shall be completed to the satisfaction of LAFCO prior to installation of the gates.
3. **Condition Compliance:** 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 occupancy or issuance of a building permit for verification of compliance with applicable Conditions of Approval.

4. **Processing Fees:** Planning Services shall verify that all Development Services and Noticing fees have been paid prior to issuance of any permits.
5. **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 applicant 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 by El Dorado County.

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

El Dorado County Department of Transportation

6. The gates shall be designed and constructed with a turnaround acceptable to the Department of Transportation and the Fire District. The improvements shall be completed to the satisfaction of the Department of Transportation or the applicant shall obtain an approved improvement agreement with security.
7. The proposed gates shall be included within the existing property owners association's CC&Rs list of maintained items to ensure perpetual maintenance of the gates.

Diamond Springs-El Dorado Fire Protection District

8. Entrance roads at the gate shall have a minimum unobstructed width of fifteen (15) feet each lane if divided or twenty (20) feet total width if not divided. In all cases, unobstructed vertical clearance shall be not less than thirteen (13) feet six (6) inches.
9. All automatic gates shall be equipped with a "Knox" emergency access override system that consists of a low security key activated switch located in accordance with Fire District requirements.
10. All automatic gates shall also be equipped with a linear receiver device and transmitters (approved by the Fire District) to allow remote activation by emergency vehicles. Gates that

serve 4 or more homes, or greater than 1 mile of roadway, shall require an Opticon receiver to open the gate.

11. Automatic gates shall be equipped with a mechanical release.
12. A loop system located on the inside of the portion of the access roadway shall permit vehicular traffic within the gated area ability to open the gate and exit without any special knowledge, action, or codes. The loop system shall also keep the gate open as long as a vehicular traffic is passing through it.
13. All automatic gates shall be designed to automatically open and remain in fully opened position during power failures.
14. Gates creating a dead-end road in excess of one-hundred fifty (150) feet in length shall be provided with approved provisions for the turning around of fire apparatus.
15. The gradient for the fire apparatus access road shall not exceed the maximum approved by the Fire District. The intent is to provide a level landing area a minimum of thirty (30) feet either side of the gate to allow emergency apparatus to be parked in a safe manner when it is necessary to exit the vehicle for manual gate activation.
16. All vehicle access control devices or systems must reach the fully open position within a total time not to exceed one (1) second for each one (1) foot from the gate location.
17. The receiving devices shall be installed so the signal from the transmitter will open the gate approximately twenty-five (25) feet from the gate location.
18. In order to ensure that the gate and access control devices are properly maintained, a copy of the yearly maintenance contract for the control device or system is required to be supplied to the Fire District. The maintenance contract shall include an annual preventative maintenance inspection and emergency repairs as required to maintain the gate and control devices in operative condition. If at any time this maintenance contract is voided for any reason, the access gate shall be locked in the open position and will remain locked open until such time as the maintenance contract is restored.
19. Prohibited devices: All required vehicle access openings shall provide both ingress and egress. Direction limiting devices, such as fixed tire spikes are prohibited. No device may be used which will delay ingress or egress of emergency responders, including but not limited to speed bumps. The total number of vehicle access control gates or systems through which emergency equipment must pass to reach any address shall not exceed one (1).
20. Plans for installation of automatic gates on fire apparatus roadways shall be submitted to the Fire District for approval prior to installation.

21. Gates and access control equipment shall not be placed into service prior to being inspected and tested by the Fire District.

ATTACHMENT 2

FINDINGS

Special Use Permit S08-0023/Grassy Run HOA Gates Planning Commission/November 10, 2011

1.0 CEQA FINDINGS

- 1.1 This project has been found to be Categorical Exempt from the requirements of CEQA pursuant to Section 15303 of the CEQA Guidelines stating:

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures... include, but are not limited to: (e) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.

Although not specifically listed, an electronic gate is similar to the items listed in Section 15303 of the CEQA Guidelines and the proposed gates are considered small structures.

- 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 at 2850 Fairlane Court, Placerville, CA, 95667.

2.0 GENERAL PLAN FINDINGS

- 2.1 As proposed, the project is consistent with the Low Density Residential (LDR) land use designation as defined within General Plan Policy 2.2.1.2 because the land use designation permits gates with a special use permit.
- 2.2 The proposal is consistent with General Plan Policies 5.7.2.1, 5.7.3.1, 5.7.4.1, 6.2.3.1, and 6.2.3.2 all relating to emergency access. It has been determined that the project is consistent with the General Plan because the project is compatible with the land use and would provide adequate emergency access as conditioned.

3.0 ZONING FINDINGS

- 3.1 The proposed use is permitted by Special Use Permit in the Estate Residential (RE-5) zone district, pursuant to Sections 17.28.200.E and 17.14.155.E provided that the administrative findings outlined below can be made by the Planning Commission.
- 3.2 As proposed and conditioned, the project meets all applicable development standards contained within the El Dorado County Zoning Ordinance.

4.0 ADMINISTRATIVE FINDINGS FOR A SPECIAL USE PERMIT

- 4.1 **The issuance of the permit is consistent with the general plan.** The gate proposal as conditioned is consistent with General Plan Policies 5.7.2.1, 5.7.3.1, 5.7.4.1, 6.2.3.1, and 6.2.3.2 in that the gate will allow emergency vehicle access and private vehicles can evacuate the area.
- 4.2 **The proposed use would not be detrimental to the public health, safety and welfare, or injurious to the neighborhood.** The El Dorado-Diamond Springs Fire Protection District has determined that inclusion of the proposed conditions the automatic gates will not have a significant affect on response times and would not be detrimental to the public health, safety and welfare, or injurious to the neighborhood.
- 4.3 **The proposed use is specifically permitted by special use permit pursuant to this Title.** The RE-5 zone district allows by special use permit “other sign sizes and applicable general provisions itemized in Chapters 17.14, 17.16, and 17.18.” Chapter 17.14 contains the miscellaneous development requirements of the County Zoning Ordinance. Although gates are not specifically mentioned, Chapter 17.14 regulates fencing and encroachments into required yards. Section 17.14.155.E specifically states that “Fences shall not be permitted within road easement or County road right-of-way.” Therefore, pursuant to Section 17.28.200.E, in order to authorize other general provisions itemized in Chapter 17.14 (fences or gates in a road easement), a special use permit from the Planning Commission must be obtained.