

CITY OF ROSEVILLE PLANNING DEPARTMENT STAFF REPORT PLANNING COMMISSION MEETING FEBRUARY 9, 2006

Prepared by: Wendy W. Hartman, Project Planner

ITEM V-A: GENERAL PLAN AMENDMENT, REZONE, GRADING PLAN & TREE PERMIT – 2009 N

CIRBY WAY (PRIMARY APPLICATION ADDRESS) - DE MELLO REZONE - FILE #S:

GPA 02-08, RZ 02-04, GP 03-19, & TP 03-30.

REQUEST

The applicant requests approval of the following entitlements:

- A General Plan Amendment to change the land use of a portion of the property from Open Space/Parks & Recreation/Floodplain to Low Density Residential;
- A *Rezone* to change the zoning of a portion of the property from Floodway to Single Family Residential;
- A *Grading Plan* to import up to 10,050 cubic yards of fill material. The Grading Plan includes a request to place fill within the floodplain in order to elevate some of the lots above the 100-year water surface elevation. The proposed fill will change the boundary of the 100 year water surface elevation; and,
- A Tree Permit to remove up to 29 native oak trees and encroach into the protected zone of several others.

Applicant: Jerry Aplass, Burrell Consulting Group
Property Owner: Multiple Property Owners – represented by Vasco De Mello

SUMMARY RECOMMENDATION

The Planning Department recommends that the Planning Commission:

- A. Adopt the Mitigated Negative Declaration;
- B. Recommend that the City Council adopt the findings of fact for the General Plan Amendment and Rezone and deny the applicant's request; and,
- C. Recommend Council approve staff's recommended project as described in the staff report.

SUMMARY OF OUTSTANDING ISSUES

The applicant is proposing to remove the Floodway (FW) zone and Open Space/Parks & Recreation/Floodplain (OS/PR/FP) land use designation from 17 lots within the Champion Oaks Unit 3 Subdivision. Five (5) of the lots are currently outside of the City's regulatory floodplain (above the 100 year water surface elevation), but within the City's Floodway zone. The remaining 12 lots are within the 100-year floodplain and would require placing fill within the floodplain in order to be developed.

Since the request to place fill within the floodplain is inconsistent with the City's General Plan policies and Flood Damage Prevention Ordinance, staff is recommending denial of the applicant's request and approval of a modified project. Staff is in support of changing the land use and zoning of the five (5) lots that are above the 100-year water surface elevation as well as the proposed Grading Plan and Tree Permit for development of these five lots. In addition, with staff's recommendation, eight additional native oak trees will be saved (total tree removals with staff's recommendation is 21). The applicant is not in agreement with staff's recommendation and requests that all 17 lots be approved for development.

John Hodgkins, a property owner in the area contends that his lots (south of Samoa Way) should be included in the current application (see Attachment 4). Because he did not come to terms with the applicant on the sharing of costs for the preparation of information and exhibits his lots were not included by the applicant and have not been evaluated by staff as part of this request. Staff has met with Mr. Hodgkins on several occasions to discuss the status of this project as well as the fact that his lots are not included in the application.

Staff has also received letters from the State of California Reclamation Board as well as several residents voicing concerns regarding the project and its potential impacts on the floodplain. Their comments are addressed in the Public Comment Section of this report.

BACKGROUND

The project consists of 17 lots (four of which are currently developed with single family homes) located within the infill area of the City. The lots are part of the Champion Oaks Unit 3 subdivision (see Attachment 1 and Figure 1). The combined acreage of the lots is approximately 3 acres.

In July of 1961 the final map for the Champion Oaks Unit 3 subdivision was recorded (112 single family lots & 3 open space lots). Subsequent to the approval of the subdivision, the City's floodplain maps were revised based on flooding that occurred in the vicinity of the project. In 1977, forty (40) of the lots within the Champion Oaks Unit 3 subdivision were rezoned from residential to floodway. The majority of these lots were undeveloped and within close proximity to Linda Creek. As a result, the undeveloped lots have not been permitted to be developed with residential uses.

Mr. De Mello, on behalf of several property owners, has submitted an application to the City of Roseville to change the zoning and land use of the 17 lots within this South Cirby Neighborhood from Floodway (FW) & Open Space/Parks & Recreation/Floodplain (OS/PR/FP) to a zoning designation of Single Family Residential (R1) and land use designation of Low Density Residential (LDR). His request also includes a Grading Plan to import up to 10,050 cubic yards of fill material and a Tree Permit to remove up to 29 native oak trees and encroach into the protected zone of several others.

ON-SITE & ADJACENT ZONING AND LAND USE

As shown in Figure 1 (Page 3 of staff report), vacant lots are located to the southwest (adjacent to Linda Creek) with single-family homes surrounding the rest of the project site. The current zoning and land use designation of the project site and surrounding parcels are shown in Table 1:

Table 1: Zoning and Land Use

LOCATION	ZONING	GENERAL PLAN LAND USE	CURRENT USE OF PROPERTY
Site	Single Family Residential (R1) & Floodway (FW)	Low Density Residential (LDR-4) & Open Space/Parks & Recreation/Floodplain (OS/PR/FP)	4 of the lots have single family homes, the remainder of the site is vacant
North	R1	LDR 4	Single Family Homes
South	FW	OS/PR/FP	Primarily vacant land & 2 homes
East	R1 and FW	LDR & OS/PR/FP	Single family homes and vacant property
West	R1 and FW	LDR & OS/PR/FP	Vacant property

Figure 1: Aerial of Project Site



EVALUATION

The evaluation section of this report includes an analysis of each of the requested entitlements. Each of the entitlements is analyzed for its consistency with the goals and policies of the applicable regulations, such as the General Plan, the Zoning Ordinance, Grading Ordinance, FEMA Flood Insurance Rate Map, Nolte Flood Study, and Flood Damage Prevention Ordinance. Analysis is provided for the General Plan Amendment and Rezone first, and is followed by review of the Grading Plan and Tree Permit.

GENERAL PLAN AMENDMENT

<u>Flood Control Project:</u> Since the 1986 flood, the City has constructed projects and implemented programs to help reduce flood impacts within Roseville. The City of Roseville's Flood Control Project (in this area) was completed in 2000. The project reduced flood levels on Linda Creek by excavating the channel overbank and establishing a bypass channel between Rocky Ridge Drive and North Cirby Way. These improvements allowed more area for the water to flow and lowered the 100-year water surface elevation between Rocky Ridge Drive and Old Auburn Road by approximately 2 ½ feet from previous flood levels. The current 100 year water surface elevation for the project site ranges from 155.9 to 158.7 feet above mean sea level. However, even with these improvements, some portions of the City are still within the 100 year floodplain.

The City's Flood Control Project has significantly reduced the number of homes that are within the floodplain from over 400 homes to approximately 88 homes. The success of the Flood Control Project was recently tested when we received 3.8 inches of rain in a 24-hour period. The water level was nearly as high as it was 10 years ago, but because of the City's Flood Project, hundreds of homes that had been damaged in the 1995 storm remained dry. This storm resulted in five homes (known to date) that sustained water damage. Fortunately, in most cases, the water was confined to the garages. Some of these homes are located in the project area (see photos 6-9 in Attachment 6). In addition, two of the streets that the project fronts on (Samoa Way and Hurst Way) were completely under water (see photos 1-4 in Attachment 6.

The City's Engineering Department visited the project site during the December 2005 storm event. They verified that the five lots the hydraulic analysis indicated were outside of the 100-year flood plane remained dry. Some of the other lots did have water within the first few feet of the lots. This is consistent with the results of the hydraulic analysis.

As shown in Attachment 6, the roads surrounding the project were inundated with Water. Chapter 10 of the City's Design Standards, stipulate that drainage systems shall be designed to accommodate a 10 year storm. However, the streets may convey water based on the type of street and intensity of storm. For example, during a 10 year storm a local street such as Samoa Way should remain clear of storm water (excluding the gutter). However during larger storm events, such as the one we had in December 2005 it is expected that some of the local roadways may be completely covered with water for a short period of time.

<u>Land Use Request:</u> As shown on the figure below, the project site currently has a General Plan land use designation of Low Density Residential & Open Space/Parks & Recreation/Floodplain. Therefore, the applicant desires to change the land use designation so that single-family homes can be constructed on the vacant lots.



Figure 2: Existing Land Use Designation

The General Plan contains goals and policies intended to promote land use patterns that enhance quality of life and minimize conflicts between land uses. The project is located in the infill area of the City where there are single family homes to the north, west and east of the site. However several of these existing homes are within the City's Floodway Zone district and 100 year floodplain.

Although the proposed land use of Low Density Residential is compatible with the adjacent land uses, approval of the project will require fill within the floodplain. The City regulates its floodplain areas through land use, zoning, and other development restrictions. This includes policies that require residential boundaries to be located outside the 100-year floodplain and that floodplain areas be permanently preserved in open space. This is why the lots are currently designated as Open Space/Parks & Recreation/Floodplain (OS/PR/FP). However, in accordance with the policies of the General Plan, encroachment into the floodplain may be permitted on a case-by-case basis and requires approval from the Planning Commission. The General Plan Guidelines for permitting fill/encroachment into the floodplain are as follows:

- The fill/encroachment is for an essential service such as roads and/or emergency/public services:
- No feasible alternatives exist that would eliminate the need to fill/encroach within the floodplain; and,
- No upstream or downstream flooding impacts will occur as a result of encroachment.

Staff and the applicant have been working together for over two years to develop accurate information regarding existing topography and floodplain elevations. This involved calibrating the flood model used for the flood control project certified by FEMA with new modeling done by the applicant's engineer. The applicant submitted a hydraulic analysis (HEC/RAS Study) that indicated the proposed project would not have a significant impact on either upstream or downstream properties. However, because the proposed project includes fill in the floodplain, staff does not believe the request is consistent with the policies and overall intent of the General Plan and Flood Damage Prevention Ordinance for the following reasons:

- A majority of the damage that resulted from the 1986 and 1995 floods occurred within the older infill area of the City where encroachments into the floodplain historically have occurred. Therefore, minimizing encroachments within the 100 year floodplain has become a primary goal of the City with regard to its floodplain management practices;
- Development of single family homes is not deemed an essential service; and
- The General Plan allows for the restriction of development in flood prone areas to protect the life and property of its citizens.

Based on this information, staff believes that the 12 lots that are within the City's 100 year floodplain should remain as Open Space/Parks & Recreation/Floodplain (OS/PR/FP). Staff does support removing the OS/PR/FP designation from the five (5) lots (Lots 134, 135, 136, 226, & 227) which are currently above the revised 100 year water surface elevation (based on the City's Flood Control Project). The applicant is not in agreement with staff's recommendation.

REZONE

Section 19.86.050 of the Zoning Ordinance requires that two findings be made in order for the Planning Commission to recommend that the City Council approve a Rezone. The two findings are listed below.

- 1. The proposed rezone is consistent with the General Plan; and
- 2. The proposed rezone is consistent with the public interest, health, safety, and welfare of the City.

The proposed zoning of the site is Single Family Residential (R1). The rezone will remove the Floodway overlay from a portion of the property (south of the zoning boundary line) and allow the site to be developed with single-family homes.

The boundaries of the Floodway overlay zone were partially based on a study prepared by the Army Corp of Engineers (ACOE) in 1973. In some areas of the City, the boundary follows the actual location of the 100 year floodplain based on the ACOE study. In other areas, the boundary is in close proximity to the 1973 floodplain, but also took into consideration existing developments and location of property lines when establishing the location of the Floodway zone. Given the confusion between the regulatory floodplain (actual location of the 100 year water surface elevation) and the City's Floodway/Floodplain zoning and land use boundaries, as requests have come forward staff has made an effort to align the zoning and land use boundaries with the location of the 100 year water surface elevation. We also try to ensure that residential lots do not have more than one zoning designation and that any land that is within the floodplain is located outside of the residential property lines.

As previously discussed, since the establishment of the Floodway Overlay zone, the City has completed several flood control projects that along with other changes in the environment have changed the location/elevation of the 100 year floodplain. Due to these changes, five (5) of the lots are currently outside the 100-year floodplain. These five (5) lots are highlighted in the figure below:

Figure 3: Lots that are outside of the 100 year floodplain (shown in yellow)



The properties to the north, west, and east of the project site are zoned Single-family Residential. Therefore, changing the zoning of these five lots would be consistent with the adjacent land use and zoning. In addition, the proposed residential lots will be subject to the same development standards as the adjacent properties.

Similar to the General Plan Amendment request, staff does not support rezoning the 12 lots that are within the 100 year floodplain. By restricting approval to the five lots that are outside of the floodplain (Lots 134, 135, 136, 226, & 227) the proposed rezone will be consistent with the General Plan and the public interest, health, safety, and welfare of the City. The applicant is not in agreement with staff's recommendation and requests that all 17 lots be rezoned to R1.

Grading Plan

The Grading Ordinance stipulates that any grading activity involving the movement of more than 50 cubic yards of material requires review and approval of a Grading Plan. In this case, a Grading Plan is required because the applicant is requesting to import up to 10,050 cubic yards of soil for the development of 17 single family homes. In situations where native oaks trees or other natural features (100 year floodplain) are impacted by grading activity, a Major Grading Plan is required to be reviewed and approved by the Planning Commission.

Section 16.20.080 the Grading Ordinance requires that the following three (3) findings be made in order to approve or conditionally approve a Major Grading Plan:

- 1. The Grading Plan conforms to the City's Improvements Standards and §16.20.070 (Grading) of the Roseville Municipal Code.
- 2. The proposed grading has been designed to accommodate, and/or mitigation conditions have been imposed to compensate for any potential impacts to any of the natural features of the property or to adjacent properties, and the grading will not result in any increase in water surface elevation in any stream channel located on the property and associated with the grading as approved.
- 3. The proposed grading is necessary to allow development of the property consistent with the General Plan Land Use allocation for the property.

The Grading Plan consists of 340 cubic yards of cut and 10,050 cubic yards of fill. The Grading Plan has been modified since the original application to reduce impacts to native oak trees. The original

grading plan proposed to remove almost all of the 103 native oak trees located on the project site. The revised plan will result in the removal of up to 29 native oak trees.

Currently, several of the lots are \pm 6 inches below the 100 year water surface elevation. The Grading Plan includes a request to place fill within the floodplain in order to elevate some of the lots above the 100 year water surface elevation. In order to evaluate the impact of the fill on the 100-year water surface elevation, the applicant submitted a hydraulic analysis (HEC/RAS study). The study was prepared by Burrell Consulting Group (dated December 12, 2003) and is available for review in the Planning & Redevelopment Department (a summary is included as Exhibit G). The study indicated that the proposed fill would result in less than a tenth of a foot increase, which is within the tolerance level of the model. The hydraulic analysis concluded that the project as proposed would not have a significant impact on either upstream or downstream properties. If approved, the proposed grading and fill within the floodplain will change the location of the 100 year water surface elevation, thus removing the remaining 12 lots from the City's regulatory floodplain.

The Flood Damage Prevention Ordinance and Improvement standards require building pads to be a minimum of two (2) feet above the 100 year water surface elevation. Therefore, the four vacant lots that are currently outside of the floodplain as well as the other vacant lots would require additional fill in order to meet this requirement. The City's Engineering Department has indicated that since the lots will have been elevated above the 100 year water surface elevation, the additional fill to raise the pads by two (2) feet would not have an impact on the floodplain.

As previously discussed, staff is not in support of allowing any fill within the floodplain. However, there are a few lots that are currently out of the floodplain due to the City's Flood Control Project and other changes in the surrounding environment. Staff would not object to these lots (vacant Lots 134, 135, 226, & 227) being graded in order to allow for the development of single family homes. Staff has added a condition (GP Condition 2a) that restricts grading activities to these four lots and prohibits any grading or fill within the floodplain.

As conditioned, the required findings can be made for the proposed Grading Plan. The applicant is not in agreement with staff's recommendation and would like Condition 2a to be deleted.

TREE PERMIT

There are approximately 103 native oak trees on the property that are subject to the City's Tree Ordinance. The applicant is requesting to remove up to 29 native oak trees to allow for pad grading, driveway locations, and construction of good neighbor fencing between lots. Eight trees will have minor to moderate encroachment into their protected zones due to grading and location of retaining walls. As shown on Exhibit E, most of the trees proposed for removal are located on Lots 134 and 135 (these two lots are outside of the floodplain). The majority of the native oak trees (67 trees) located along the rear of the lots will not be impacted. Additional Tree Permits may be required in the future in order to allow for the construction of homes. These will be evaluated on a lot by lot basis.

The Tree Preservation Chapter of the Roseville Zoning Ordinance requires two findings to be made in order to approve a Tree Permit. The two findings are listed below.

- Approval of the Tree Permit will not be detrimental to the public health, safety, or welfare, and approval of the Tree Permit is consistent with the provisions of Chapter 19.66 of the Roseville Zoning Ordinance.
- 2. Measures have been incorporated in the project or permits to mitigate impacts to remaining trees and to provide replacement for trees removed.

The applicant has submitted an arborist report (Exhibit F) identifying the size and health of native oak trees on the site. The arborist report also includes recommendations to mitigate the impacts of construction activities on the trees. The recommendations of the arborist will be incorporated into the conditions for the tree permit. Below is a summary of the proposed tree impacts and arborists recommendations.

<u>Tree Removal</u>: Proposed grading activities to prepare the site for development of 13 single family homes will result in the removal of up to 29 native oak trees. As discussed in the Grading Section of this report the grading plan has been modified to reduce impacts to native oak trees. The majority of the trees proposed for removal are located in the front or center of the lots. Trees located in the rear or side yard areas of the lots are proposed to be preserved. In most cases, homes should be able to be developed on these lots without impacting additional trees. In the event that additional tree impacts are proposed for the construction of a home, a separate Tree Permit will be required.

The first two lots (134 & 135) listed in Table 2 below are outside of the 100 year water surface elevation. Four trees (140, 168, 191, & 192) located on Lots 133 and 166 are listed as conditional removals. Trees 140 and 168 are located along the property line and may need to be removed for the construction of a good neighbor fence. Two trees (191 & 192) located on Lot 166 may also be preserved, but will require 2:1 fill slopes as well as changes in the location of the house pad. If these lots are approved for development, efforts shall be made to preserve these trees. If during project construction, the arborist determines that impacts to these trees is too significant and the trees will not survive or pose a hazard the trees may be removed.

Table 2: Proposed Tree Removals

TREE #	Species ¹	DBH Inches ²	Structure	Vigor	Reason for Removal				
Lot 135: this lot is outside of the 100 year floodplain									
117	QL	10.5	Fair	Fair	Fill for Pad				
118	QL	6	Fair	Fair	Fill for Pad				
122	QL	8	Fair-Good	Fair-Good	Fill for Pad				
123	QL	6 *	Fair	Fair-Good	Fill for Pad				
124	QL	8.5 *	Fair	Fair	Fill for Pad				
125	QW	6 *	Fair	Fair	Fill for Pad				
126	QL	6.5 *	Fair	Fair	Fill for Pad				
129	QL	9	Fair	Fair-Good	Fill for Pad				
132	QL	9	Fair	Fair-Good	Fill for Pad				
133	QL	7.5 *	Fair	Fair-Good	Fill for Pad				
134	QL	8	Fair	Fair	Fill for Pad				
Lot 134: this	s lot is outside of	the 100 ye	ar floodplain						
127	QL	9	Fair	Fair-Good	Fill for Pad & utility excavation				
128	QL	6	Fair	Fair-Good	Fill for Pad & utility excavation				
130	QL	3*	Fair	Fair-Good	Fill for Pad & utility excavation				
131	QL	4*	Fair	Fair-Good	Fill for Pad & utility excavation				
135	QL	9 *	Fair	Fair-Good	Fill for Pad & utility excavation				
136	QL	13.5 *	Fair	Fair-Good	Fill for Pad & utility excavation				
137	QL	11.5 *	Fair-Good	Fair-good	Fill for Pad & utility excavation				
138	QL	6.5	Fair-Good	Fair-Good	Driveway Footprint				
139	QL	9	Fair-Good	Fair-Good	Driveway Footprint				
Lot 133									
140 ³	QW	5	Fair	Fair-Good	Possible property line fence conflict				
168 ³	QL	18	Fair	Fair-Good	Property line fence conflict				
Lot 166									
190	QL	12	Fair	Fair	Driveway Footprint				
191 ³	QL	10	Fair	Fair	Fill for Pad				
192 ³	QL	10	Fair	Fair	Fill for Pad				
Lot 167									
194	QL	4.5 *	Fair	Fair-Good	Fill for Pad				

TREE #	Species ¹	DBH Inches ²	Structure	Vigor	Reason for Removal
196	QL	8	Fair-Poor	Fair-Good	Fill for Pad & retaining wall
197	QL	10	Fair	Fair-Good	Wall

- 1. QL = Quercus lobata (Valley Oak); QW = Quercus wislizenii (Interior Live Oak)
- 2. "*" multi trunk tree that is cumulatively 6 inches or larger in diameter. Size of largest trunk listed (minimum mitigation is 6 inches).
- 3. These trees are conditionally approved for removal. Efforts shall be made to preserve these trees as outlined in the arborist's report

<u>Tree Mitigation:</u> The project developer has proposed to mitigate for the removal of native oak trees through the payment of in-lieu fees. The project does not include any common areas that could be replanted with oak trees. In addition, off-site planting of City owned property within the vicinity of the project is limited by existing flood control project mitigation plantings and the location of the floodplain. Payment of in-lieu fees is consistent with the provisions of Section 19.66.070 of the tree ordinance. Condition 3 of the Tree Permit addresses the mitigation requirement.

<u>Proposed Encroachments:</u> To reduce impacts to trees, the project has been designed to limit pad grading to the front portion of the lots and outside the protected zone radius of the native oak trees to the extent possible while still providing a developable area for construction of single family homes. Nine native oak trees will have encroachments into their protected zone radius in order to prepare the lots for development of single family homes. A summary of the proposed impacts and the arborist's recommendations are listed in Table 3 below. Overall, the arborist has indicated that impacts to these trees will be minor with the exception of trees 193 and 202 which will receive moderate impacts due to fill.

Table 3: Tree Encroachment

TREE#	Species	DBH Inches	Structure	Vigor	% of Encroachment	IMPACT	MITIGATION RECOMMENDATIONS
Lot 131		inches			Encroachment		RECOMMENDATIONS
178	QL	11	Fair-Poor	Fair	Depends on location of fence	Fence	If possible fence should be notched or sectioned to allow for trunk growth. Fence posts shall not be located closer than 4' on either side of the tree trunk.
Lot 154		ı			T		
185	QL	14 *	Fair	Fair	14.8%	Fill & retaining wall	Subsurface fertilize prior to construction. Install an aeration system & utilize a pier foundation footing for the wall.
186	QL	12	Fair-Good	Fair- Good	17.5%	Fill	Recommend that the fill slope be constructed at the rear of the lot along the edge of the tree PZR. Fill should not exceed a depth greater than 1 foot.
Lot 152							
187	QL	13 *	Fair	Fair- Good	9.5%	Fill from lot 152	To reduce impacts, fill soil shall be placed into the PZR by mechanical equipment located outside of the PZR.
Lot 166							
193	QL	21	Fair	Fair- Poor	26.8%	Fill	Minimize fill encroachment into PZR and limit depth to 1' or less. Subsurface Fertilization
Lot 167							
201	QL	10	Fair	Fair- Good	14.9%	Fill	Minimize fill encroachment into PZR and limit depth to 1' or less. Subsurface Fertilization

202	QL	8 *	Fair	Fair- Good	22.1%	Fill	Minimize fill encroachment into PZR and limit depth to 1' or less. Subsurface Fertilization
203	QL	5.5	Fair	Fair	2.5%	Fill	Minimize fill encroachment into PZR and limit depth to 1' or less. Subsurface Fertilization
205	QL	15	Fair	Fair	4.8%	Fill	Minimize fill encroachment into PZR and limit depth to 1' or less. Subsurface Fertilization

- 1. QL = Quercus lobata (Valley Oak); QW = Quercus wislizenii (Interior Live Oak)
- 2. "*" multi trunk tree that is cumulatively 6 inches or larger in diameter. Size of largest trunk listed (minimum mitigation is 6 inches).
- SSF Sub surface fertilization

TREE PERMIT CONCLUSION

Although the project has been designed to minimize impacts to native oak trees, staff is recommending that tree impacts be limited to Lots 134 and 135. These two (2) lots are located outside of the City's floodplain. The other three (3) lots that are outside of the floodplain are either developed and therefore exempt from the Tree Ordinance or do not have any native oak trees located on them. Limiting impacts to these two lots is consistent with staff's recommendation regarding the proposed General Plan Amendment, Rezone, and Grading Plan as discussed above. In addition, this will further reduce impacts to trees in that eight (8) additional trees will be saved and encroachments will be significantly reduced as well. The applicant is not in agreement with staff's recommendation and requests that Tree Permit Condition 2a be modified to allow all of the trees listed in Table 2 be permitted for removal.

PUBLIC COMMENT

On September 6, 2005 the City hosted a neighborhood meeting to discuss the De Mello rezone project. Approximately 15 residents and/or property owners attended the meeting. The primary concerns voiced at the meeting were:

- Impact of placing fill within the floodplain on adjacent homes and properties;
- Flood Control Project and flooding concerns;
- Accuracy of the Hydraulic Analysis for the project;
- Impacts to native oak trees;
- School impacts; and
- Types of homes proposed and impact on existing homes.

The majority of the neighbor's concerns have been responded to in the evaluation section of this report. A detailed response to their concerns is provided in Attachment 2. However, the majority of the neighbors are still opposed to the project.

Staff has received letters from several neighbors who oppose the projects based on their concerns with placing fill/development within the floodplain (Attachment 4). The State of California Reclamation Board has also submitted a letter (Attachment 3) voicing concerns with allowing encroachments and residential development within the floodplain. A few of the letters included comments and concerns that were not directly related to this application and therefore have not been addressed in the staff report (responses have been provided verbally and/or in writing regarding these items).

The applicant has submitted letters from two (2) neighbors (that do not own property included in this request) that are in support of the project as proposed (Attachment 5).

ENVIRONMENTAL DETERMINATION

The Planning & Redevelopment Director has determined that the above project will not have a significant effect on the environment and proposes that a Negative Declaration be adopted. This determination has been based upon an Initial Study, which has concluded that there will be no significant environmental impacts. At this meeting the Approving Authority may adopt the proposed Negative Declaration. The Negative Declaration was circulated for a 20-day public review period that began on October 22, 2005 and ended on November 10, 2005. A resident submitted a letter on November 10, 2005 regarding the Initial Study. Her concerns are addressed below.

The resident's letter (Attachment 4) indicates that she believes the initial study for the project lacks sufficient information to determine the projects impact on biological and cultural resources and that she also has concerns regarding cumulative impacts to the Linda Creek watershed. Overall the resident does not believe homes should be built within this area due to impacts to native oak trees, wild life, and potential flooding of future homeowners.

The original subdivision map approved for this site would have allowed for the development of the vacant lots with single family homes. Road and utility improvements were installed and the property was graded; therefore, disturbing the natural features of the site. Based on this, additional biological studies were not required since they were evaluated with the General Plan and original subdivision approval.

The neighbor's letter makes several references to the vacant lots adjacent to Linda Creek (south side of Samoa Way & Hurst Way) and the impact that development of this area would have on native oak trees, wildlife, and creek corridor. These lots are not part of the application and therefore would not be impacted by the proposed project. The grading of the lots that are included in this application have taken into consideration the location of native oak trees. Seventy-four of the 103 native oaks trees located on the project site will be preserved.

Lastly, flooding and drainage impacts were addressed in the environmental document and staff reports. The City's Public Works – Engineering Division is confident that the proposed project will not impact the 100-year water surface elevation.

In conclusion, staff believes that the resident's concerns have been adequately addressed in the Initial Study. Therefore no changes or mitigation measures are proposed to the Initially Study or project.

RECOMMENDATION

The Planning & Redevelopment Department recommends that the Planning Commission take the following actions (A-C):

- A. Adopt the Mitigated Negative Declaration;
- B. Deny the applicant's request; and,
- C. Approved Staff's Modified Project and recommendations as listed below:
 - Recommend that the City Council approve the GENERAL PLAN AMENDMENT for Lots 134, 135, 136, 226, & 227 of the Champion Oaks Unit 3 subdivision – De Mello Rezone Project – FILE # GPA 02-08;
 - 2. Recommend that the City Council adopt the two findings of fact as stated in the staff report for the REZONE of Lots 134, 135, 136, 226, & 227 of the Champion Oaks Unit 3 subdivision De Mello Rezone Project FILE # RZ 02-04:
 - 3. Recommend that the City Council approve the REZONE of Lots 134, 135, 136, 226, & 227 of the Champion Oaks Unit 3 subdivision De Mello Rezone Project FILE # RZ 02-04;

- 4. Require the applicant to revise the GENERAL PLAN & REZONE EXHIBITS so they pertain only to Lots 134, 135, 136, 226, & 227 of the Champion Oaks Unit 3 subdivision De Mello Rezone Project;
- 5. Adopt the three (3) findings of fact as stated in the staff report for the MAJOR GRADING PLAN for Lots 134, 135, 136, 226, & 227 of the Champion Oaks Unit 3 subdivision De Mello Rezone Project FILE # GP 03-19;
- 6. Approve the MAJOR GRADING PLAN for Lots 134, 135, 136, 226, & 227 of the Champion Oaks Unit 3 subdivision De Mello Rezone Project FILE # GP 03-19 with the 43 conditions listed below:
- Adopt the two (2) findings of fact as stated in the staff report for the TREE PERMIT De Mello Rezone Project – FILE # TP 03-30;
- 8. Approve the TREE PERMIT De Mello Rezone Project FILE # TP 03-67 with the 21 conditions listed below.

Alternative Action

If the Planning Commission believes the findings can be made to approve the applicant's request, the following action should be taken:

- 1. Adopt the Mitigated Negative Declaration;
- 2. Recommend that the City Council approve the GENERAL PLAN AMENDMENT and REZONE for the De Mello Rezone Project FILE # GPA 02-08;
- 3. Adopt the three (3) findings of fact as stated in the staff report for the MAJOR GRADING PLAN for the De Mello Rezone Project FILE # GP 03-19;
- 4. Delete Major Grading Plan Condition 2a and approve the MAJOR GRADING PLAN for the De Mello Rezone Project FILE # GP 03-19 with the 43 conditions listed below;
- 5. Adopt the two (2) findings of fact as stated in the staff report for the TREE PERMIT De Mello Rezone Project FILE # TP 03-30;
- 6. Modify Tree Permit Condition 2 as follows: "Tree impacts shall be limited to trees located on lots 134, 135, 136, 226, & 227 of the Champion Oaks 3 subdivision. The following trees located on the above referenced lots are approved for removal: 117-118, 122-139, 190, 194, 196, & 197. Trees 140, 168, 191, & 192 are conditionally approved for removal. Efforts shall be made to preserve these four trees. All other native oak trees shall remain in place. Trees to be removed shall be clearly marked in the field and inspected by Planning Staff prior to removal. Removal of the trees shall be performed by or under the supervision of a certified arborist;" and,
- 7. Approve the TREE PERMIT De Mello Rezone Project FILE # TP 03-67 with the 21 conditions listed below and as modified above.

Conditions of Approval for Major Grading Plan: GP 03-19

- 1. This Grading Plan approval shall be effectuated within a period of one (1) year from this date and if not effectuated shall expire on **February 9, 2007**.
- 2. The project is approved as shown in Exhibits A-G and as conditioned or modified below:
 - a. Grading Activities shall be limited to lots 134, 135, 136, 226, & 227 (2009, 2011, & 2100 N. Cirby, 1203 and 1205 Samoa Way) of the Champion Oaks 3 subdivision. No fill or grading activities shall occur on lots that are all or partially within the City's regulatory floodplain (Lots 130-133, 145, 152-155 of the Champion Oaks 3 subdivision. (Planning/Engineering)
- 3. The design and construction of all improvements shall conform to the Improvement Standards and Construction Standards of the City of Roseville, or as modified by these conditions of approval, or as directed by the City Engineer. (Engineering)
- 4. The applicant shall pay City's actual costs for providing plan check, mapping, GIS, and inspection services. This may be a combination of staff costs and direct billing for contract professional services. A deposit in the amount of two (2) percent of the value of the public improvements, or \$1000, which ever is greater, shall be provided at the time plans are submitted to the City for review. Prior to plan approval, the applicant shall provide an additional deposit of two (2) percent of the value of the public improvements, or \$1000, whichever is greater. City_costs will be billed against the deposited amount on a monthly basis. Monthly statements will be issued by the City's Finance Department to the applicant. If at any time the balance in the deposit account is less than \$500, the applicant may be required to deposit additional funds as estimated by the City. All funds remaining in the deposit account will be refunded upon completion of the project. (Engineering, Environmental Utilities, Finance)
- 5. The applicant shall not commence with any on-site improvements until such time as grading plans are approved and grading and/or encroachment permits are issued by the Department of Public Works (Engineering)

PRIOR TO GRADING PERMIT/APPROVAL OF IMPROVEMENT PLANS:

- 6. For all work to be performed off-site, permission to enter and construct shall be obtained from the property owner, in the form of a notarized right-of-entry. Said notarized right-of-entry shall be provided to Engineering prior to approval of any plans. (Engineering)
- 7. The grading and improvement plans shall be designed in accordance with the City's Improvement Standards and Construction Standards and shall reflect the following:
 - a. Street improvements including, but not limited to, curb, gutter, sidewalk, pavement, drainage systems, traffic striping, signing, medians and markings, etc. along all existing and proposed City streets, as required by Engineering.
 - b. Grading shall comply with the City grading ordinance. Erosion control devices (sediment traps, ditches, straw bales, etc.) shall be shown on the grading plans. All erosion control shall be installed prior to the onset of wet weather. Erosion control is installed to minimize silt discharge from the project site. It is incumbent upon the applicant to ensure that necessary measures are taken to minimize silt discharge from the site. Therefore modification of the erosion control plan may be warranted during wet weather conditions.

- c. A rough grading permit may be approved by Engineering prior to approval of the improvement plans.
- d. Access to the floodplain as required by Engineering and the Streets Department.
- e. Standard Handicap ramps shall be installed at all curb returns per City Standards. (Engineering)
- 8. The grading plans shall be designed in accordance with the City's Improvement Standards and Construction Standards and shall reflect the following:
 - a. Grading shall comply with the City grading ordinance. No cut and/or fill slopes steeper than a 4:1 slope ratio. Erosion control devices (sediment traps, ditches, straw bales, etc.) shall be shown on the grading plans. All erosion control shall be installed prior to the onset of wet weather. Erosion control is installed to minimize silt discharge from the project site. It is incumbent upon the applicant to ensure that necessary measures are taken to minimize silt discharge from the site. Therefore modification of the erosion control plan may be warranted during wet weather conditions. (Engineering)
- 9. Prior to the approval of the Improvement Plans, the project proponent shall prepare and submit a Storm Water Pollution Prevention Plan (SWPPP) to the City, as defined by the Regional Water Quality Control Board. The SWPPP shall be submitted in a single three ring binder. Upon approval, the SWPPP will be returned to the project proponent during the pre-construction meeting. (Engineering)
- 10. A note shall be added to the grading plans that states: "Prior to the commencement of grading operations, the contractor shall identify the site where the deficit earthen material shall be borrowed. A report issued by a geotechnical engineer shall be submitted to verify that the imported materials are suitable for fill. If the borrow site is within the City of Roseville, the contractor shall show proof of all approved grading plans. Haul routes to be used shall be specified." (Engineering)
- 11. The grading plans shall be accompanied with engineered structural calculations for all retaining walls greater then 4 feet in height. All retaining walls shall be of masonry or keystone block type construction. (Engineering)
- 12. Lots approved for development on North Cirby, Samoa, and Hurst shall be Class I drainage. Lots approved for development on Meadow lane may be Class II drainage. (Engineering)
- 13. The following improvements must be shown on the Improvement Plans and be completed prior to the notice of completion:
 - a. The curb, gutter, and sidewalk shall be replaced along the northern side of North Cirby from the eastern limits of the project to the end of the street.
 - b. The curb, gutter, sidewalk, and pavement shall be removed and replaced along Samoa Way, Hurst Way, and Meadow Lane from the northern limits of the project. Sidewalk may be omitted along the southern side of Hurst Way.
 - c. New City standard pedestrian access ramps shall be installed at all curb returns on Samoa Way and Hurst Way. (Engineering)

- 14. The applicant shall apply for and obtain an encroachment permit from the Engineering Department prior to the commencement of work within City right-of-way or on-site work that will require material to be trucked to or from the site within City right-of-way's. (Engineering)
- 15. The applicant shall raise existing water and sewer services to lots where fill will occur as part of grading plans. (Engineering)
- 16. All grading shall occur no closer than 1.5 times the radius of a native oak tree's protected zone unless otherwise approved through a Tree Permit. (Planning)
- 17. The grading shall not change the drainage pattern within the distance of 1.5 times the radius of a native oak tree's protected zone. (Planning)
- 18. It is the developer's responsibility to notify PG&E of any work required on PG&E facilities. (PG&E)

DURING CONSTRUCTION & PRIOR TO NOTICE OF COMPLETION:

- 19. Separate document easements required by the City shall be prepared in accordance with the City's "Policy for Dedication of Easements to the City of Roseville." All legal descriptions shall be prepared by a licensed land Surveyor. (Engineering, Environmental Utilities, Electric)
- 20. The following note shall be added to the grading plans:

To minimize dust/ grading impacts during construction the applicant shall:

- a. Spray water on all exposed earth surfaces during clearing, grading, earth moving and other site preparation activities throughout the day to minimize dust.
- b. Use tarpaulins or other effective covers on all stockpiled earth material and on all haul trucks to minimize dust.
- c. Sweep the adjacent street frontages at least once a day or as needed to remove silt and other dirt which is evident from construction activities.
- d. Ensure that construction vehicles are cleaned prior to leaving the construction site to prevent dust and dirt from being tracked off-site.
- e. The City shall have the authority to stop all grading operations, if in opinion of city staff, inadequate dust control or excessive wind conditions contribute to fugitive dust emissions. (Engineering)
- 21. Existing public facilities damaged during the course of construction shall repaired by the applicant, at the applicant's expense, to the satisfaction of the City. (Engineering)
- 22. All improvements being constructed in accordance with the approved grading and improvement plans shall be accepted as complete by the City. (Engineering)
- 23. Prior to the construction of any grading, the site shall be scarified and all deleterious vegetation shall be removed. (Engineering)
- 24. All fill shall be placed in standard lifts, and shall be compacted to a minimum of 90% relative compaction. Prior to the approval and acceptance of the grading operation as complete, the

- applicant shall provide a soils report generated from a registered geotechnical engineer certifying that the fill has been properly constructed. (Engineering)
- 25. Prior to the notice of completion, the developer must provide a Letter of Map Revision showing that the new house pads are 2 feet above the 100 year flood plain. (Engineering)
- 26. If at anytime prior to the "Notice of Completion", the determination is made that existing curb ramp(s) do not meet standard City requirements, it will be the responsibility of the developer to remove/replace or modify the deficient ramp(s) to meet City standards. (Engineering)
- 27. Equipment and materials shall be transferred to and from the site along North Cirby Way or Champion Oaks Drive. (Engineering)
- 28. Prior to the Notice of Completion, all vegetation and dirt shall be removed from the pavement, curbs, gutters, and sidewalks along Samoa Way, Hurst Way, Meadow Lane south of the northern limits of the project, and North Cirby west of the eastern edge of the project. (Engineering)
- 29. Prior to the Notice of Completion, the contractor shall verify positive drainage along the North Cirby Gutter pan from the improved parcels to the creek. Ponding in the gutter pan and street will not be allowed. (Engineering)
- 30. The project is subject to the noise standards established in the City's Noise Ordinance. In accordance with the City's Noise Ordinance project construction is exempt between the hours of seven a.m. and seven p.m. Monday through Friday, and between the hours of eight a.m. and eight p.m. Saturday and Sunday. Provided, however, that all construction equipment shall be fitted with factory installed muffling devices and that all construction equipment shall be maintained in good working order. (Building)
- 31. Any relocation, rearrangement, or change of existing electric facilities due to this development shall be at the developer's expense. (Electric)
- 32. Any facilities proposed for placement within public/electric utility easements shall be subject to review and approval by the Electric Department before any work commences in these areas. This includes, but is not limited to, landscaping, lighting, paving, signs, trees, retaining walls, and structures of any type. (Electric)
- 33. It is the responsibility of the developer to insure that all existing electric facilities remain free and clear of any obstruction during construction and when the project is complete. (Electric)

OTHER CONDITIONS OF APPROVAL:

- 34. The applicant shall pay City's actual cost for providing plan check, installation, and inspection services. This may be a combination of staff costs and direct billing for contract professional services. (Engineering, Environmental Utilities)
- 35. All existing public utility, electric, water, sewer and reclaimed water easements shall be maintained. (Electric, Engineering, Environmental Utilities)
- 36. The project shall comply with all required environmental mitigation identified in the De Mello Initial Study and Mitigated Negative Declaration (state the Environmental Document name). (Planning)
- 37. The applicant shall have a qualified biologist conduct a raptor nest survey prior to construction for construction activity, which occurs during the breeding season (February 1 to August 1). If an active

- nest is located, construction activities shall be limited in the area of the nest based upon the recommendations of the surveying biologist. (Planning, Engineering)
- 38. The applicant shall submit a fencing plan for the installation of a 5-foot high temporary fence around the base of the fill slopes, to protect the oak trees and wetland areas. The fencing plan shall be reviewed and approved by the Planning Department. (Planning)
- 39. Prior to construction activities on-site, the Planning Department shall inspect all fencing for compliance with the approved fencing plan. (Planning)
- 40. Temporary aboveground storage tanks may be used at construction sites for diesel fuel only and shall not exceed 1,000-gallon capacity. Tanks shall comply with all provisions found within the Fire Code. A Fire Department Permit shall be obtained prior to tank installation. The permit shall expire after 90 days from the date of issuance, unless extended by the Fire Chief. (Fire)
- 41. If site survey or earth moving work results in the discovery of hazardous materials in containers or what appears to be hazardous wastes released into the ground, the contractor or person responsible for the building permit must notify the Roseville Fire Department immediately. A representative from the Fire Department will make a determination as to whether the incident is reportable of not and if site remediation is required. (Fire)
- 42. The Grading Plan application shall not be deemed approved until the actions on the Rezoning and General Plan Amendment are approved and become effective. (Planning)
- 43. Prior to issuance of a building permit, the property owner shall pay school fees in accordance with the current adopted rates. The property owner may be required to enter into a mutual benefit agreement with the school districts. (Planning, Building)

Conditions of Approval for Tree Permit: TP 03-30

CONDITION	COMPLIANCE VERIFIED/ INSPECTED	COMMENTS
PRIOR TO ISSUANCE OF ANY PERMITS OR ANY CONSTRUCTION OF	N-SITE	
 All recommendations contained in the Arborist Report(s) (Exhibit F) sh incorporated as part of these conditions except as modified h (Planning) 		
2. Tree impacts shall be limited to trees located on lots 134, 135, 136, 2 227 of the Champion Oaks 3 subdivision. The following trees located above referenced lots are approved for removal: 117-118, & 122-13 other native oak trees shall remain in place. Trees to be removed shall clearly marked in the field and inspected by Planning Staff prior to rer Removal of the trees shall be performed by or under the supervision certified arborist. (Planning)	on the 9. All nall be moval.	
3. The developer shall be responsible for the replacement of the total not of inches proposed for removal prior to any tree removal. The total not inches for this project is 161.5. Mitigation must be provided prior to removal unless otherwise approved in the tree replacement plan or in conditions. (Planning)	umber to tree	
4. No activity shall be permitted within the protected zone of any native or beyond those identified by this report. (Planning)	ak tree	

5.	A \$10,000 cash deposit or bond (or other means of security provided to the	
	satisfaction of the Planning Department) for each lot under separate	
	ownership shall be posted to insure the preservation of all remaining trees	
	during construction. The cash deposit or bond shall be posted in a form	
	approved by the City Attorney. Each occurrence of a violation on any	
	condition regarding tree preservation shall result in forfeiture of all or a	
	portion of the cash deposit or bond. (Planning)	
6.	A violation of any of the conditions of this Tree Permit is a violation of the	
	Roseville Municipal Code, the Zoning Ordinance (Chapter 19.74) and the	
	Tree Preservation Ordinance (Chapter 19.66). Penalties for violation of any	
	of the conditions of approval may include forfeiture of the bond, suspension	
	or revocation of the permit, payment of restitution, and criminal penalties.	
	(Planning)	
7.	A fencing plan shall be shown on the approved site plan and/or improvement	
	plans demonstrating the Protected Zone for the affected trees. A maximum	
	of three feet beyond the edge of the walls, driveway, or walkways will be	
	allowed for construction activity and shall be shown on the fencing plan. The	
	fencing plan shall be reviewed and approved by the Planning Department	
_	prior to the placement of the protective fencing. (Planning)	
8.	The applicant shall install a minimum of a five-foot high chain link fence (or	
	acceptable alternative) at the outermost edge of the Protected Zone of the	
	oak tree. The fencing for encroachments shall be installed at the limit of	
	construction activity. The applicant shall install signs at two equidistant locations on the temporary fence that are clearly visible from the front of the	
	lot and where construction activity will occur. The size of each sign shall be	
	a minimum of two feet (2') by two feet (2') and must contain the following	
	language: "WARNING THIS FENCE SHALL NOT BE REMOVED OR	
	RELOCATED WITHOUT WRITTEN AUTHORIZATION FROM THE	
	PLANNING DEPARTMENT". (Planning)	
9	Once the fencing is installed, the applicant shall schedule an appointment	
	Office the ferfully is mistalied, the applicant shall scriedule an appointment	
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0.	with the Planning Department to inspect and approve the temporary fencing	
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14. All preservation devices (aeration systems, oak tree wells, drains, special paving, etc.) shall be designed and installed as required by these conditions and the arborist's recommendations, and shall be shown on the improvement plans or grading plans. (Planning)	
15. If any native ground surface fabric within the Protected Zone must be removed for any reason, it shall be replaced within forty-eight (48) hours. (Planning)	
16. Storage or parking of materials, equipment and vehicles is not permitted within the protected zone of any oak tree. Vehicles and other heavy equipment shall not be operated within the Protected Zone of any oak tree. (Planning)	
17. Where recommended by the arborist, portions of the foundation shall be hand dug under the direct supervision of the project arborist. The certified arborist shall immediately treat any severed or damaged roots. Minor roots less than one (1) inch in diameter may be cut, but damaged roots shall be traced back and cleanly cut behind any split, cracked or damaged area. Major roots over one (1) inch in diameter may not be cut without approval of an arborist and any arborist recommendations shall be implemented. (Planning)	
18. The temporary fencing shall remain in place throughout the entire construction period and shall not be removed without obtaining written authorization from the Planning Department. In no event shall the fencing be removed before the written authorization is received from the Planning Department. (Planning)	
PRIOR TO ISSUANCE OF AN OCCUPANCY PERMIT	·
19. Within 5 days of the completion of construction, a Certification Letter from a certified arborist shall be submitted to and approved by the Planning Department. The certification letter shall attest to all of the work (regulated activity) that was conducted in the protected zone of the tree, either being in conformance with this permit or of the required mitigation still needing to be performed. (Planning)	
20. A copy of this completed Tree Permit Compliance Verification/Inspection form shall be submitted to the Planning Department. (Planning)	
21. The approval of this Tree Permit shall expire on the same date as the Grading Plan (GP03-19).	

ATTACHMENTS

- 1. Vicinity Map
- 2. September 6, 2005 Neighborhood Meeting Notes
- 3. Letter from the California Board of Reclamation
- 4. Letters from neighbors voicing concerns with proposed project
- 5. Letters from neighbors in support of the project
- 6. Photos from December 2005 Storm

EXHIBITS

- A. Aerial with Floodway zoning boundary and location of 100 year water surface elevation
- B. Mitigated Negative Declaration
- C. General Plan Amendment Exhibit
- D. Rezone Exhibit
- E. Grading Plan
- F. Arborist's Recommendations October 12, 2005 (Complete arborist report available at the Planning & Redevelopment Department)
- G. Hydraulic Analysis Executive Summary (Complete study available at the Planning & Redevelopment Department)

Note to Applicant and/or Developer: Please contact the Planning Department staff at (916) 774-5276 prior to the Commission meeting if you have any questions on any of the recommended conditions for your project. If you challenge the decision of the Commission in court, you may be limited to raising only those issues which you or someone else raised at the public hearing held for this project, or in written correspondence delivered to the Planning Director at, or prior to, the public hearing.