

MEMORANDUM  
COMMUNITY DEVELOPMENT/RESOURCE AGENCY  
PLANNING SERVICES DIVISION  
County of Placer

TO: Board of Supervisors  
DATE: June 21, 2016

FROM: Paul Thompson   
Interim Agency Director

BY: George Rosasco  
Supervising Planner

SUBJECT: Willow Park Planned Residential Development Conditional Use Permit Modification -  
Appeal of Planning Commission's Decision

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**ACTION REQUESTED**

1. Conduct a Public Hearing to consider an Appeal from Michelle Engel, on behalf of the Willow Park Home Owners Association.
2. Grant the Appeal filed by Michelle Engel, on behalf of the Willow Park Home Owners Association and consider de novo the Conditional Use Permit Modification request to allow for an electronic vehicular gated entry with lighting and two pedestrian gates at the entrance to the subdivision, a modification of the existing Emergency Vehicle Access gate, and the addition of a pedestrian gate at the Cook Riolo Road/Bulrush Street location.
3. Reverse the decision of the Planning Commission by the following actions:
  - A. Find that the Conditional Use Permit Modification is Categorically Exempt from environmental review pursuant to the provisions of Section 15303 of the California Environmental Quality Act Guidelines and Section 18.36.050(E) of the Placer County Environmental Review Ordinance (Class 3 – New Construction of Accessory Structures).
  - B. Approve Conditional Use Permit Modification to allow for an electronic vehicular gated entry with lighting and two pedestrian gates at the entrance to the subdivision, a modification of the existing Emergency Vehicle Access gate, and the addition of a pedestrian gate at the Cook Riolo Road/Bulrush Street location.

**BACKGROUND**

The Willow Park Subdivision is located on approximately 40 acres, and includes 7.8 acres of open space and private, on-site recreation facilities. The site is bordered on the north by PFE Road, and on the east by Cook Riolo Road. The Homeowner's Association for the Willow Park Planned Development Subdivision is requesting a Conditional Use Permit Modification to allow for an electronic vehicular gate and pedestrian gates at the entrance to the subdivision, as well as to replace the existing manual EVA gate at Bulrush Street and Cook Riolo Road with a wrought iron, manual gate and to add a pedestrian gate at that location.

The Willow Park Subdivision entrance/exit vehicular and pedestrian gates would be located at PFE Road at Canopy Tree Street, and the Emergency Vehicle Access (EVA) gate and pedestrian gate would be located at Bulrush Street at Cook Riolo Road. All three pedestrian gates would have lighted keypads, and would include an automatic system which locks the pedestrian gates from dusk to dawn. Lighting around the gates for safety and security purposes is also anticipated, and would include lights on the top of the pilasters. As proposed, the entrance/exit gate system would be automated so that residents of the subdivision would not have to enter a code into the keypad for entrance into the community. As indicated on the attached site plan, the

distance between the entry gate keypad and the existing edge of curb would leave sufficient room for residents to by-pass a visitor who is stopped at the keypad.

The Vesting Tentative Subdivision Map and Conditional Use Permit for the Willow Park Planned Development Subdivision were approved by the Board of Supervisors in 2001. At the time of approval, Condition of Approval number 66 specifically prohibited gated entries.

The 76-lot, fully-developed, single-family residential subdivision provides for private on-site recreation facilities, which are maintained by the Home Owner's Association (HOA), along with the roads, sidewalks and trails. Due to increasing acts of vandalism and theft in recent years, as well as a desire for privacy due to growth in the area, the HOA has come forward with a request to install electronic gates at the entrance to the subdivision.

## **DISCUSSION OF ISSUES**

### Zoning/Community Plan Consistency

Installation of entrance features, including gates, is consistent with the Planned Residential Development zoning and would not substantially alter the character of the subdivision. While the Dry Creek West Placer Community Plan does not specifically prohibit gates, Goal 6 on page 51 of the Plan states that "It is a goal to create residential development which allows the following elements: Human interaction, bicycle and pedestrian circulation, an appropriate relationship to existing development in the area....". Even with the proposed vehicular gate, public pedestrian and bicycle access to the subdivisions will still be maintained during the daylight hours, as the pedestrian gates are to remain unlocked from dawn to dusk. Because the Conditions of Approval for the Willow Park Subdivision specifically prohibits gates, the Conditional Use Permit for the subdivision requires modification. Recommended revisions to the Conditions of Approval for the subdivision are included as Attachment C, and reflect the allowance for a gated entry.

### Aesthetics

The proposed gates would be constructed of a decorative wrought iron and would be a maximum of eight feet tall at the highest point and two feet wider in width than the roadway served. Support columns for the gates would match those within the subdivision and would include lighting fixtures on top of the pilasters. A recommended Condition of Approval has been included which requires that any proposed lighting be fully shielded so that light is directed downward.

Staff has determined that the inclusion of a gated entry, three pedestrian gates and replacement of the existing EVA gate with a different style of gate, along with any safety lighting would not create a significant visual impact on the entry areas.

### Land Use Consistency/Compatibility with Adjacent Uses

The proposed gates will be consistent with the character of the general area given that there have been recent approvals for gated entries to subdivisions within the Dry Creek West Placer Community Plan area. Traditionally, gate requests for subdivisions within the Dry Creek West Placer Community Plan area were not supported by either the MAC or the Planning Commission. However, four other residential subdivisions in the area have recently been approved for gated entries: the American Vineyard Village Subdivision, located to the east on Vineyard Road, the Cabral Ranch Subdivision, which is located on Cook Riolo Road, and most recently, the Morgan Creek and Morgan Greens Subdivisions.

### Design Exception for the Gate Turn-Around Area

The project proposes a turn-around radius of 29.79 feet at the entrance gate, where 30 feet is standard. Staff has reviewed and found that this slight deviation still meets the intent of the standard design. The underlying reason for the large radius is to allow vehicles to turn around in front of the gate and enter the County Road in a forward facing direction. The proposed layout meets this requirement.

### HOA vote issues

Several issues have been raised in written correspondence and testimony before the Commission as to whether the HOA Board has the authority to apply for a Conditional Use Permit modification. The County requires the owner to either apply or to consent to the filing of application for a land use entitlement by an

authorized agent. The HOA Board applied for the Conditional Use Permit modification. After this issue was raised, staff conducted further inquiries and in addition to staff's independent review of the Associations Covenants, Conditions, and Restrictions (CC&Rs), staff has received a written legal opinion from the HOA Board's attorney that the Association's CC&R's gives the Association's board of directors authority over the common area, which specifically includes the roadways within the Subdivision." (See Attachment C to the Planning Commission staff report.) Staff is satisfied that the HOA Board of Directors has the authority to bring forward the present request. The issue of whether or not the HOA has garnered the requisite votes to construct the gate is a separate private matter for the HOA to address.

#### **WEST PLACER MUNICIPAL ADVISORY COUNCIL**

The proposed project was presented to the West Placer Municipal Advisory Council (MAC) as an Action Item on February 10, 2016, at which time the MAC continued the item due to a question as to the validity of the HOA vote to approve the project. The HOA Board asserted that a 51 percent vote for the gate constituted approval, whereas the opponents of the gate asserted that a 67 percent vote was required for approval. The project was subsequently considered by the MAC on March 9, 2016 at which time the MAC determined that the validity of the HOA vote was a matter for the HOA members to resolve internally. After considering substantial public comments both in favor of and against the project, the MAC voted to recommend denial (3:2 vote) of the gate proposal to the Planning Commission. The MAC concluded that the divisive outcome from the HOA members, the cost of the project and the subsequent financial burden on the homeowners warranted denial. The primary concerns of the HOA members supporting the gate contend that the gates would provide additional safety and would also increase home values. The HOA members opposing the gate contend that they moved to the subdivision because it was not a gated community, that the amount of money required per parcel was not affordable, that they did not want to have to pay for something they didn't want, and that the HOA vote was invalid because a 67 percent vote in favor of the gate was not obtained. As indicated above, the MAC determined that the validity of the HOA vote was a matter for the HOA members to resolve internally.

#### **PLANNING COMMISSION**

The proposed project was considered by the Placer County Planning Commission on April 14, 2016. The Commission considered substantial public comments both in favor of and against the project. The Planning Commission deliberations focused on the divisiveness of the HOA members, the potential financial burden on some homeowners, a question about perceived or actual safety concerns, and the fact that Conditions of Approval prohibiting gates were in affect when residents purchased homes in the Willow Park Subdivision. A motion was made to find the project Categorically Exempt of CEQA and approve the Conditional Use Permit Modification to allow for vehicular and pedestrian gates. However, the vote was tied (3; 3; 1; 0; with Commissioners Moss, Roccucci and Nader voting yes, Commissioners Arcuri, Gray, and Johnson voting no and Commissioner Sevison absent). Pursuant to County Code Section 17.60.050, a decision of the Planning Commission requires a vote of not less than fifty-one percent of a quorum. Where the Commission is the original hearing body and there is "a failure to approve or deny a project which is before them for consideration" this "shall constitute a denial of the application for said project." (Section 17.60.050) In this matter, the Planning Commission's motion and vote was less than the required fifty-one percent. Therefore, the 3-3 motion resulted as a denial of the Conditional Use Permit modification application by operation of law and in such a case findings to support the denial are not required. .

#### **APPEAL**

The applicant, Michelle Engel on behalf of the Willow Park Home Owners Association, filed an Appeal of the Planning Commission's denial of its request for a Conditional Use Permit Modification to allow for an electronic vehicular gated entry with lighting and two pedestrian gates at the entrance to the subdivision, a modification of the existing Emergency Vehicle Access gate, and the addition of a pedestrian gate at the Cook Riolo Road/Bulrush Street location. The reason for the Appeal is due to the Planning Commission's tie vote which resulted in a denial of the requested gate by operation of law.

#### **ENVIRONMENTAL CLEARANCE**

The project is Categorically Exempt from environmental review pursuant to the provisions of Section 15303 of the California Environmental Quality Act Guidelines and Section 18.36.050(E) of the Placer County

Environmental Review Ordinance (Class 3 – New Construction of Accessory Structures). The Board of Supervisors will be required to make a finding to this effect.

## **RECOMMENDATION**

As detailed in this report, based upon the reasoning that there are no environmental grounds which would preclude the gates, and given that the proposed gates would be consistent with the character of the immediate area where other subdivisions have similar gated entrances, staff recommends that the Board of Supervisors take the following actions:

1. Grant the applicant's Appeal of the Planning Commission's denial of its request for a Conditional Use Permit Modification to allow for an electronic vehicular gated entry with lighting and two pedestrian gates at the entrance to the subdivision, a modification of the existing Emergency Vehicle Access gate, and the addition of a pedestrian gate at the Cook Riolo Road/Bulrush Street location;
2. Reverse the April 14, 2016 decision of the Planning Commission's denial of the Conditional Use Permit Modification;
3. Find that the project is Categorically Exempt from environmental review pursuant to the provisions of Section 15303 of the California Environmental Quality Act Guidelines and Section 18.36.050(E) of the Placer County Environmental Review Ordinance (Class 3 – New Construction of Accessory Structures), and
4. Approve a Conditional Use Permit Modification to the Willow Park Conditional Use Permit (CUP 2747) to allow for an electronic vehicular gated entry with lighting and two pedestrian gates at the entrance to the subdivision, as well as a modification of the existing Emergency Vehicle Access gate and the addition of a pedestrian gate at the Cook Riolo Road/Bulrush Street location, subject to the following findings and attached recommended Conditions of Approval (Attachment C):
  - A. The installation of electronic vehicular gate and pedestrian gates for the community is consistent with the objectives, policies, general land uses and programs as specified in the Placer County General Plan, the Dry Creek West Placer Community Plan, and the surrounding community in that unimpeded pedestrian and bicycle access to the community and its amenities will still be available from dawn to dusk.
  - B. The proposed Conditional Use Permit Modification to allow gates is consistent with the Placer County Zoning Ordinance (Residential-Agricultural - Section 17.44.010 and Planned Residential Development – Section 17.52.120) in that the gates would meet the setback requirements, the support columns would be consistent with those already in use by the subdivision, and the pedestrian gates would provide for full pedestrian and bicycle access during the daytime hours.
  - C. The proposed gates will be consistent with the character of the immediate area, where other subdivisions have similar gated entrances, and will not be contrary to its orderly development.
  - D. The installation of a gated entry will not be detrimental to the health, safety, and general welfare of people residing or working in the neighborhood of the proposed use, and will not be detrimental or injurious to property or improvements in the neighborhood or the general welfare of the County.

## **ATTACHMENTS:**

Attachment A: Proposed Entrance and EVA Gate Site Plans  
Attachment B: Applicant Appeal, dated April 14, 2016  
Attachment C: Recommended Modifications to Conditions of Approval  
Attachment D: Planning Commission Staff Report  
Attachment E: Correspondence

cc: Applicant  
Sarah Gillmore - Engineering and Surveying Division

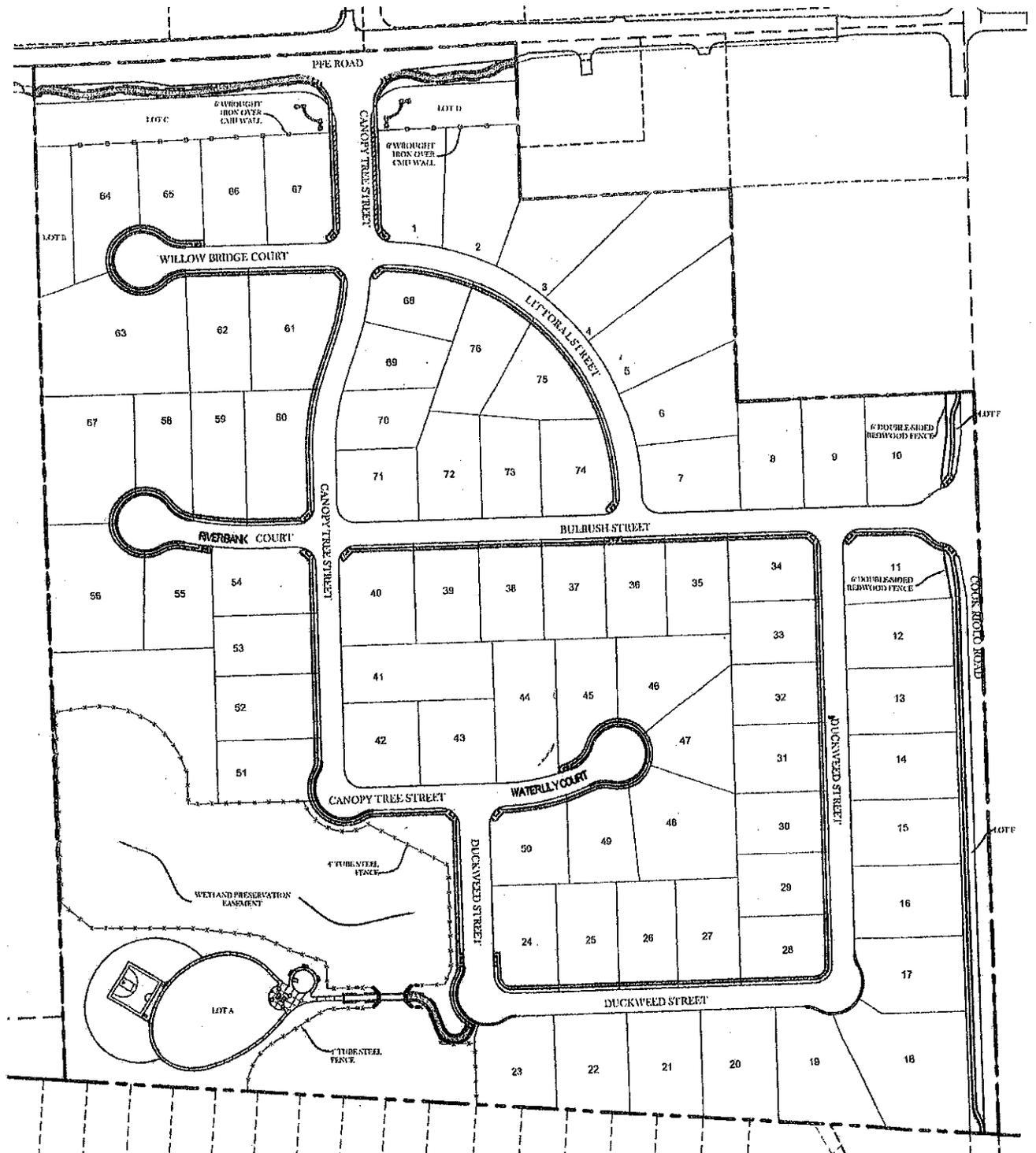
Laura Rath - Environmental Health Services  
Angel Green - Air Pollution Control District  
Andy Fisher - Parks Department  
Karin Schwab - County Counsel  
Michael Johnson - CDRA Director  
EJ Ivaldi - Deputy Director  
Andy Heath - CEO Office

# ATTACHMENT A

## KEY MAP

# WILLOW PARK

## PLACER COUNTY, CALIFORNIA



SEPTEMBER 28, 2005

**TSD Engineering, Inc.**  
Total Site Design

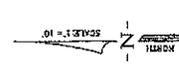
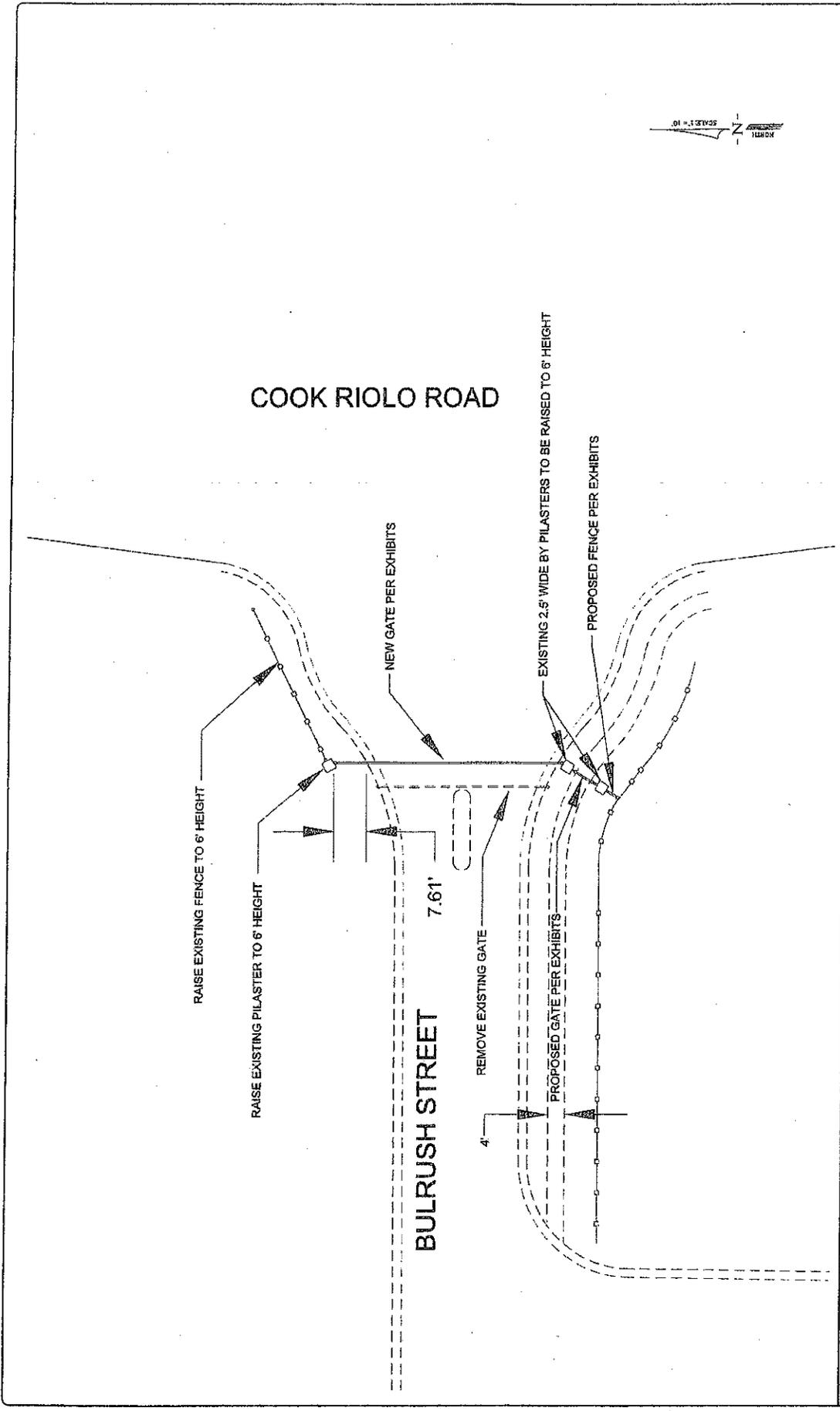
509 Bridge Street  
Folsom, CA 95630  
TEL: 916-608-0707, FAX: 916-608-0701



NOT TO SCALE

P:\Projects\113-001\DWG\Willow Park Development Notebook\PP\PLAN\N-KEY MAP.dwg, Administrator, 16:24:02, 09-28-05





WILLOW PARK SUBDIVISION  
 PROPOSED ENTRANCE GATE  
 BULRUSH STREET  
 COUNTY OF PLACER, CALIFORNIA  
 SITE PLAN

SHEET NO.  
 C3 OF 2

**PA SGI** A State Vendor  
 ENGINEERS PLANNERS ARCHITECTS  
 2001 Parkside Blvd., Suite 108  
 Davis, CA 95618  
 (530) 752-4422 (Fax) (530) 752-4400  
 www.pasgi.com



DESIGNED	DRAWN

DESIGNED	DRAWN

NO.	DESCRIPTION	DATE	BY	CHKD

NO.	DESCRIPTION	DATE	BY	CHKD

# ATTACHMENT B



## PLACER COUNTY PLANNING DEPARTMENT

AUBURN OFFICE  
3091 County Center Dr  
Auburn, CA 95603  
530-886-3000/FAX 530-886-3080  
Web page: [www.placer.ca.gov/planning](http://www.placer.ca.gov/planning)

TAHOE OFFICE  
565 W. Lake Blvd./P. O. Box 1909  
Tahoe City CA 96145  
530-581-6280/FAX 530-581-6282  
E-Mail : [planning@placer.ca.gov](mailto:planning@placer.ca.gov)

Reserved for Date Stamp

RECEIVED

APR 13 2016

## PLANNING APPEALS

CDRA

The specific regulations regarding appeal procedures may be found in the Placer County Code, Chapters 16 (Subdivision), 17 (Planning and Zoning), and 18 (Environmental Review Ordinance).

### OFFICE USE ONLY

Last Day to Appeal 4/25/16 (5 pm)

Letter \_\_\_\_\_

Oral Testimony \_\_\_\_\_

Zoning \_\_\_\_\_

Maps: 7-full size and 1 reduced for Planning Commission Items

Appeal Fee \$ 552.00

Date Appeal Filed 4/14/16

Receipt # 10-03421850

Received by OD

Geographic Area \_\_\_\_\_

### TO BE COMPLETED BY THE APPLICANT

1. Project name Wilan Park after project

2. Appellant(s) Board of Directors Michelle Engel, President

Address 3065 Burkush St. Lowell 95647 Telephone Number 916-600-2042 Fax Number \_\_\_\_\_  
City State Zip Code

3. Assessor's Parcel Number(s): 486-010-032

4. Application being appealed (check all those that apply):

- |  |  |
|--|--|
| <input type="checkbox"/> Administrative Approval (AA-____)             | <input type="checkbox"/> Tentative Map (SUB-____)  |
| <input checked="" type="checkbox"/> Use Permit (CUP/MUP-____)          | <input type="checkbox"/> Variance (VAA-____)       |
| <input type="checkbox"/> Parcel Map (P-____)                           | <input type="checkbox"/> Design Review (DSA-____)  |
| <input type="checkbox"/> General Plan Amendment (GPA-____)             | <input type="checkbox"/> Rezoning (REA-____)       |
| <input type="checkbox"/> Specific Plan (SPA-____)                      | <input type="checkbox"/> Rafting Permit (RPA-____) |
| <input type="checkbox"/> Planning Director Interpretation _____ (date) | <input type="checkbox"/> Env. Review (EIAQ-____)   |
| <input type="checkbox"/> Minor Boundary Line Adj. (MBR-____)           | Other: _____                                       |

5. Whose decision is being appealed: Planning Commission 3-3 vote.

6. Appeal to be heard by: Board of Supervisors

7. Reason for appeal (attach additional sheet if necessary and be specific):

No full PC to vote on item titled @ 3-3 means denial. Fees paid under protest and Board wishes to have them refunded.

(If you are appealing a project condition only, please state the condition number)

Note: Applicants may be required to submit additional project plans/maps.

Signature of Appellant(s) Michelle Engel  
HOA Board President

# ATTACHMENT C



**RECOMMENDED CONDITIONS OF APPROVAL –  
REZONING/TENTATIVE MAP/CONDITIONAL USE PERMIT –  
"WILLOW PARK PLANNED DEVELOPMENT"  
(REA-896/SUB-397/CUP-2747)**

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***THE FOLLOWING CONDITIONS SHALL BE SATISFIED BY THE APPLICANT, OR AN AUTHORIZED AGENT. THE SATISFACTORY COMPLETION OF THESE REQUIREMENTS SHALL BE DETERMINED BY THE DEVELOPMENT REVIEW COMMITTEE (DRC), COUNTY SURVEYOR, AND/OR THE PLANNING COMMISSION.***

1. This Vesting Tentative Map and Conditional Use Permit is approved for a 76 lot Planned Development on ±40 acres, including 7.8 acres of open space and private on-site recreation facilities. This project will be built in a single phase. Temporary real estate sales use are permitted as part of CUP approval for the first sale of lots within this subdivision.

On February 10, 2005, the Planning Commission approved a two-year extension of time. (Condition's 1, 29, 32, 33, 34, 35, 36, 38, 55, 56, 62, 63, and 112 were modified; condition 37 was deleted.)

On February 9, 2006, the Planning Commission approved the modification to allow for the establishment of a side street side yard setback of 21 feet, as measured from the back-of-curb, for the Willow Park residential subdivision. (Conditions # 82, 89, 91, and 105 were modified; Condition #113 was added.)

On May 25, 2006 the Planning Commission approved a Modification to the Conditional Use Permit to allow for an increase in the maximum allowable lot coverage for a two-story home to 30 percent on Lots 26, 29, 32, 33, 36, 38, 42, 49, 51, 68, 71, 72, 73; to 32 percent on Lot 30; and to 34 percent on Lot 70. (Condition #107 was modified.)

**On June 21, 2016, the Board of Supervisors approved a Conditional Use Permit Modification (PLN15-00454) to allow an eight-foot tall, electronic vehicular gate which incorporates pilasters with lighting, and two pedestrian gates at the Canopy Tree Street entrance to the subdivision. In addition, the existing manual Emergency Vehicle Access gate at Cook Riolo Road and Bulrush Street will be replaced with a wrought iron manual gate and a pedestrian gate. The pedestrian gates shall remain open to the public from dawn to dusk, seven days a week. Conditions 1 and 66 were modified, and new conditions 114, 115, 116, 117, 118, 119, 120, 121, 122, 123 and 124 were added.**

2. The following Standard Condition #'s ip4, 7, 8, 15, 19, 20, 21, 24, 25, 26, 27; g4, 7; rt13, 15, 19; ps2, 5; v4, v5, v14; cr2; eh16; ap1, 2, 4; mc2, 10, 11, 15; n25, and 29, apply to this project as printed in Volume 7, Number 1, dated March 5, 2001 and as listed in condition 2 A) thru FF) as listed below.

A) Recreational Facilities: The Improvement Plans shall provide details of the construction of the proposed recreational facilities, public and private, both on- and off-site,

**JUNE 2016, BOS**

for the review and approval of the DRC and County Parks Division (PD's). All recreation facilities shall be designed to meet Americans with Disabilities Act (ADA) Federal Guidelines and, where appropriate, the Consumer Product Safety Commission Guidelines (COSC), and the requirements of the American Society for Testing and Materials (ASTM). Approval shall be evidenced by signature of a Parks Division representative on the Improvement Plans. **(CR)** (PD/DFS)

B) The connection of each existing residence within this project to public sanitary sewers is required, shall be shown on the Improvement Plans, and shall be included in the engineer's estimate of costs for subdivision improvements. **(CR)** (EHS/DPW)

C) All proposed grading, drainage improvements, vegetation and tree removal shall be shown on the Improvement Plans and all work shall conform to provisions of the County Grading Ordinance (Ref. Article 15.48, formerly Chapter 29), Placer County Code) that are in effect at the time of submittal. No grading, clearing, or tree disturbance shall occur until the Improvement Plans are approved and all temporary construction fencing has been installed and inspected by a member of the DRC. All cut/fill slopes shall be at 2:1 (horizontal:vertical) unless a soils report supports a steeper slope and DPW concurs with said recommendation.

The applicant shall revegetate all disturbed areas. Revegetation undertaken from April 1 to October 1 shall include regular watering to ensure adequate growth. A winterization plan shall be provided with project Improvement Plans. It is the applicant's responsibility to assure proper installation and maintenance of erosion control/winterization during project construction. Where soil stockpiling or borrow areas are to remain for more than one construction season, proper erosion control measures shall be applied as specified in the Improvement Plans/Grading Plans. Provide for erosion control where roadside drainage is off of the pavement, to the satisfaction of the DPW.

Submit to the DPW a letter of credit or cash deposit in the amount of 110% of an approved engineer's estimate for winterization and permanent erosion control work prior to Improvement Plan approval to guarantee protection against erosion and improper grading practices. Upon the County's acceptance of improvements, and satisfactory completion of a one-year maintenance period, unused portions of said deposit shall be refunded to the project applicant or authorized agent.

If, at any time during construction, a field review by County personnel indicates a significant deviation from the proposed grading shown on the Improvement Plans, specifically with regard to slope heights, slope ratios, erosion control, winterization, tree disturbance, and/or pad elevations and configurations, the plans shall be reviewed by the DRC/DPW for a determination of substantial conformance to the project approvals prior to any further work proceeding. Failure of the DRC/DPW to make a determination of substantial conformance may serve as grounds for the revocation/modification of the project approval by the appropriate hearing body. **(SR/CR)** (DPW)

D) **ADVISORY COMMENT:** This project is subject to construction-related storm water permit requirements of the Federal Clean Water Act National Pollutant

Discharge Elimination System (NPDES) program. Any required permits shall be obtained through the State Regional Water Quality Control Board or EPA. **(FR/SR)** (DPW)

E) If diversion of surface waters from existing channels and/or if existing or proposed reservoirs are to be included within this project, clearance for such works from the State Water Resources Control Board, Division of Water Rights, shall be obtained by the applicant and evidence of such clearance furnished to DPW prior to Improvement Plan approval. **(SR)** (DPW)

F) Provide the DPW with a letter from the appropriate fire protection district describing conditions under which service will be provided to this project. Said letter shall be provided prior to the approval of Improvement Plans, and a fire protection district representative's signature shall be provided on the plans. **(CR)** (DPW)

G) Extend a pressurized water system into the subdivision to County (Section 7 of the LDM) or fire district standards, whichever are greater. **(CR)** (DPW)

H) The Improvement Plans shall be approved by the water supply entity for water service, supply, and maintenance. The water supply entity shall submit to the Departments of Environmental Health Services and Public Works a "will-serve" letter or a "letter of availability" from the water district indicating that the agency has the ability and system capacity to provide the project's domestic and fire protection water quantity needs. **(CR)** (DPW/EHS)

I) An agreement shall be entered into between the developer and the utility companies specifically listing the party(ies) responsible for performance and financing of each segment of work relating to the utility installation. A copy of this agreement or a letter from the utilities stating such agreement has been made shall be submitted to the DPW prior to the filing of the Final Map(s). Under certain circumstances, the telephone company may not require any agreement or financial arrangements be made for the installation of underground facilities. If so, a letter shall be submitted which includes the statement that no agreement or financial arrangements are required for this development. **(CR)** (DPW)

J) Install cable TV conduit(s) in accordance with company or County specifications, whichever are appropriate. **(CR)** (DPW)

K) Submit, for review and approval, a striping and signing plan with the project Improvement Plans. The plan shall include all on- and off-site traffic control devices and shall be reviewed by the County Traffic Engineer. A construction signing plan shall also be provided with the Improvement Plans for review and approval by the County Traffic Engineer. **(CR)** (DPW)

L) In order to protect site resources, no grading activities of any kind may take place within the 100-year flood plain of the stream nor within the watershed of the vernal pool(s), unless otherwise approved as a part of this project. **(CR/MM)** (DPW/PD)

M) If blasting is required for the installation of site improvements, the developer will comply with applicable County Ordinances that relate to blasting and use only State licensed contractors to conduct these operations. (DPW)

N) Provide school bus turnout(s) to the satisfaction of the California Highway Patrol, local busing provider, and the DPW. A letter shall be provided from the CHP which addresses the turnout as shown on the project Improvement Plans prior to their approval.

**(CR)** (DPW)

O) An Encroachment Permit shall be obtained from DPW prior to Improvement Plan approvals for any landscaping within public road rights-of-way. **(CR)** (DPW)

P) Proposed road names and alternatives shall be submitted to the local postal authority for written comments and shall be approved by the DPW prior to Improvement Plan approval. **(CR)** (DPW)

Q) Prior to the approval of the Improvement Plans, submit to Environmental Health Services a "will-serve" letter from the franchised refuse collector for weekly or more frequent refuse collection service. **(CR)** (EHS)

R) Prior to the approval of the Improvement Plans, confer with local postal authorities to determine requirements for locations of cluster mailboxes, if required. The applicant shall provide a letter to DRC from the postal authorities stating their satisfaction with the development road names and box locations, or a release from the necessity of providing cluster mailboxes prior to Improvement Plan approval. If clustering or special locations are specified, easements, concrete bases, or other mapped provisions shall be included in the development area and required improvements shall be shown on project Improvement Plans. **(FR/CR)** (DPW)

S) **ADVISORY COMMENT:** This project may be subject to review and approval by the State Dept. of Fish & Game, National Marine Fisheries Services (NMFS), and/or the U. S. Army Corps of Engineers. It is the applicant's responsibility to obtain such approvals, if necessary, prior to any grading, clearing, or excavation. **(CR)** (PD/DPW)

T) Prior to approval of Improvement/Grading Plans, the applicant shall furnish to the DRC, evidence that the California Department of Fish & Game, the U. S. Army Corps of Engineers, the National Marine Fisheries Services (NMFS), and the U. S. Fish and Wildlife Service have been notified by certified letter regarding the existence of wetlands, including vernal pools on the property. If permits are required, they shall be obtained and copies submitted to DRC prior to any clearing, grading, or excavation work. **(FR/SR/CR)** (DPW/PD)

U) The wetlands report shall be field verified by the U.S. Army Corps of Engineers, the U. S. Fish and Wildlife Service, and the California Department of Fish & Game as deemed necessary by DRC prior to the filing of the Final Map. If significant discrepancies arise between the report and the field investigation of these agencies, the DRC shall schedule a hearing before the Planning Commission to consider revocation or modification of the project's permit approvals. **(FR/SR/CR/MM)** (PD)

V) If any archaeological artifacts, exotic rock (non-native), or unusual amounts of shell or bone are uncovered during any on-site construction activities, all work must stop immediately in the area and a SOPA-certified (Society of Professional Archaeologists)

archaeologist retained to evaluate the deposit. The Placer County Planning Department and Department of Museums must also be contacted for review of the archaeological find(s).

If the discovery consists of human remains, the Placer County Coroner and Native American Heritage Commission must also be contacted. Work in the area may only proceed after authorization is granted by the Placer County Planning Department. A note to this effect shall be provided on the Improvement Plans for the project.

Following a review of the new find and consultation with appropriate experts, if necessary, the authority to proceed may be accompanied by the addition of development requirements which provide protection of the site and/or additional mitigation measures necessary to address the unique or sensitive nature of the site. **(SR/CR/MM)** (PD)

W) Properly destroy, under permit and inspection, the existing well(s) and septic system(s) located within the project site. Said destruction shall be shown on the Improvement Plans. **(CR)** (EHS)

X) The applicant shall submit a dust control plan to the APCD no later than 45 days prior to groundbreaking. The applicant shall not break ground prior to receiving APCD approval of the dust control plan. **(MM)** (APCD)

Y) No open burning shall occur unless the applicant demonstrates, in writing, to the APCD that alternatives to open burning have been explored and that open burning is the only feasible method of disposal. The District's issuance of a Burn Permit will be dependent upon the applicant's successful demonstration that no other feasible method of disposal exists. Any burning must be done in conformance with APCD Regulation 3 (Open Burning). The burning of construction/demolition debris is prohibited. **(CR/MM)** (APCD)

Z) All woodburning devices installed in the project must be EPA-certified Phase II. Any fireplaces installed must have EPA-certified Phase II inserts. **(FR)** (APCD)

AA) No lot shall be further divided. **(CR)** (PD)

BB) During project construction, staking shall be provided pursuant to Section 5-1.07 of the County General Specifications. **(CR)** (DPW)

CC) Pursuant to Government Code, Section 66474.9(b), applicant(s) agrees as a condition of issuance and use of this Permit to defend, at their sole expense, any action brought against the County because of issuance of this Permit, or in the alternative, the relinquishment of such Permit. Applicant(s) will reimburse the County for any court costs and attorney's fees which the County may be awarded by a court, to pay, as a result of such action. The County may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve the applicant of their obligations under this condition. **(SR)** (PD)

DD) No on-site or off-site flags/pennants are permitted in connection with the model home sales use. **(CR)** (PD)

EE) Electrical outlets shall be installed on the exterior walls of all buildings/residences to promote the use of electric landscape maintenance equipment. (APCD)

FF) The developer shall install electric vehicle raceways (conduit only) in all garages. (APCD)

3. Following Tentative Map approval, but before submittal of Improvement Plans, the applicant shall provide the Planning Department with 5 full-size blue-line prints of the approved Tentative Map for distribution to other County departments.

## IMPROVEMENT PLANS

4. The applicant shall prepare and submit Improvement Plans, specifications and cost estimates (per the requirements of Section II of the Land Development Manual [LDM] that are in effect at the time of submittal) to the DPW for review and approval. The plans shall show all conditions for the project as well as pertinent topographical features both on- and off-site. All existing and proposed utilities and easements, on-site and adjacent to the project, which may be affected by planned construction, shall be shown on the plans. All landscaping and irrigation facilities within the public right-of-way (or public easements), or landscaping within sight distance areas at intersections, shall be included in the Improvement Plans. The applicant shall pay plan check and inspection fees. The cost of the above-noted landscape and irrigation facilities shall be included in the estimates used to determine these fees. It is the applicant's responsibility to obtain all required agency signatures on the plans and to secure department approvals. If the Design/Site Review process and/or DRC review is required as a condition of approval for the project, said review process shall be completed prior to submittal of Improvement Plans. Record drawings shall be prepared and signed by a California Registered Civil Engineer at the applicant's expense and shall be submitted to the DPW prior to acceptance by the County of site improvements.

**ADVISORY COMMENT:** Conceptual landscape plans submitted prior to project approval may require modification during the Improvement Plan process to resolve issues of drainage and traffic safety. **(SR/CR/MM)** (DPW)

**ADVISORY COMMENT:** Technical review of the Final Map shall not commence until the Improvement Plans are approved by the DPW. **(CR)**(DPW)

The applicant shall provide 5 copies of the approved Tentative Map and 2 copies of the approved conditions with the plan check application.

5. Staging Areas: Stockpiling and/or vehicle staging areas shall be identified on the Improvement Plans and located a minimum of 100' from the tributary to Dry Creek located in the southwest of the project, and preserved wetlands; and a minimum of 500' from any existing residences. **(CR/MM)** (DPW)
6. Equestrian/Pedestrian Trails: The Improvement Plans shall provide details of the location and specifications of all proposed equestrian/pedestrian trails per Condition #26, for the review and approval of the DRC and Parks Division. Said trails shall be installed prior to the County's acceptance of the subdivision's improvements, and all easements shall be shown on the Final Map. **(CR)** (PD/DFS)

7. Landscape Plan: The Improvement Plans shall provide details of the location and specifications of all proposed landscaping and irrigation per Condition #40, for the review and approval of the DRC (and Parks Division if maintenance is provided through a CSA). Said landscaping shall be installed prior to the County's acceptance of the subdivision's improvements. **(CR/MMIP)** (PD/DFS)

8. Prepare and submit with the project Improvement Plans, a drainage report in conformance with the requirements of Section 5 of the LDM and the Placer County Storm Water Management Manual that are in effect at the time of submittal, to the DPW for review and approval. The report shall be prepared by a Registered Civil Engineer and shall, at a minimum, include: A written text addressing existing conditions, the effects of the improvements, all appropriate calculations, a watershed map, increases in downstream flows, proposed on- and off-site improvements and drainage easements to accommodate flows from this project. The report shall address storm drainage during construction and thereafter and shall propose "Best Management Practice" (BMP) measures to reduce erosion, water quality degradation, etc. Said BMP measures for this project shall include: Minimizing drainage concentration from impervious surfaces, construction management techniques, erosion protection at culvert outfall locations (cobble/rip-rap installation), silt fence/hay bale installation, avoidance of disturbance in areas outside of the area of construction, and revegetation of disturbed areas. The BMP's may include any, or all, of the following as approved by DPW. Other BMP's may be incorporated, subject to DPW approval. **(CR/MM)** (DPW)

A) Connection of house roof gutters directly to on-lot drainage swales. Provisions shall be included in the CC&R's to prevent future homeowner disturbance of swales designated to convey such drainage and to prevent direct connection to street gutters or storm drainpipes.

B) Label storm drainage inlets (i.e., "Do not dump; drains to Dry Creek").

C) Distribute education literature on proper disposal of liquids and other household hazardous materials.

D) Construction period BMP's shall include:

1) Minimize the area and length of time that the site is cleared and graded;

2) Revegetate/stabilization of cleared areas as soon as possible;

3) Implement a comprehensive erosion, dust and sediment control program;

4) Implement a program to control potential construction activity pollutants such as cement mortar, paints and solvents, fuel and lubricating oils, pesticides and herbicides;

5) Implement a hazardous material spill prevention, control and cleanup

program;

6) The above programs shall be prepared and submitted to DRC for review and approval prior to improvement plan approvals.

9. Storm drainage from on-site impervious surfaces shall be collected and routed through specially designed catchbasins, vaults, filters, etc. for entrapment of sediment, debris and oils/greases as approved by DPW. Maintenance of these facilities shall be provided by the homeowners' association unless, and until, a County Service Area is created and said facilities are accepted by the County for maintenance. Prior to Improvement Plan or Final Map approval, easements shall be created and offered for dedication to the County for maintenance and access to these facilities in anticipation of possible County maintenance. **(CR/MM)** (DPW)

10. Drainage facilities, for purposes of collecting runoff on individual lots, shall be designed in accordance with the requirements of the County Storm Water Management Manual that are in effect at the time of submittal, and to the satisfaction of DPW. These facilities shall be constructed with subdivision improvements and easements provided as required by DPW. Maintenance of these facilities shall be provided by the homeowners' association.

Urban drainage from this project shall not be allowed to directly enter protected or created wetlands. All residential lots shall be sloped toward the internal streets and the surface runoff shall be collected into the storm drain system or other provisions for collecting and transporting runoff from lots shall be provided to the satisfaction of DPW. **(CR/MM)** (DPW)

11. Show the limits of the 100-year flood plain for the tributary to Dry Creek located in the southwest corner of the project on the Improvement Plans and Informational Sheet(s) filed with the Final Map(s) and designate same as a building setback line unless greater setbacks are required by other conditions contained herein. **(CR/MM)** (DPW)

12. Show finished house pad elevations 2' above the 100-year flood plain line (or finished floor 3' above) for Lots adjacent to the above floodplain and in those areas presently below the 100-year flood elevation on the Improvement Plans and Informational Sheet filed with the Final Map. Pad elevations shall be certified by the project engineer on "As-Built" plans submitted to the DPW following project construction. Benchmark elevation and location shall be shown on the Improvement Plans and Informational Sheet to the satisfaction of DRC. **(CR/MM)** (DPW)

13. Submit to DPW, for review and approval, a geotechnical engineering report produced by a California Registered Civil Engineer or Geotechnical Engineer. The report shall address and make recommendations on the following:

- A) Road, pavement, and parking area design
- B) Structural foundations, including retaining wall design
- C) Grading practices
- D) Erosion/winterization
- E) Special problems discovered on-site, (*i.e.*, groundwater, expansive/unstable soils, etc.)
- F) Slope stability
- G) Design of utility improvements in roadways (on and off-site) including recommendations regarding the advisability of maintaining through traffic during construction.
- H) Shoring necessary for utility construction

Once approved by the DPW, two copies of the final report shall be provided to the DPW and one copy to the Building Department for their use. If the soils report indicates the presence of critically expansive or other soils problems which, if not corrected, would lead to structural defects, additional investigations, prior to issuance of Building Permits, may be required for subdivisions. This shall be so noted in the CC&Rs and on the Informational Sheet filed with the Final Map(s). It is the responsibility of the developer to provide for engineering inspection and certification that earthwork has been performed in conformity with recommendations contained in the report. **(SR/CR/MM)** (DPW)

14. The applicant shall prepare a floodplain analysis for the proposed tributary crossing for the Park site access. The analysis shall be reviewed and approved by the Placer County Flood Control and Water Conservation District as well as the DPW, prior to approval of Improvement Plans. The analysis shall conform to the requirements of Section 5 of the LDM and the Placer County Storm Water Management Manual that are in effect at the time of submittal. The crossing shall not be allowed to impact the floodplain of the tributary. The intent of this condition is to ensure no impact occurs as a result of the crossing design and to provide evidence to that effect. **(MM)**

15. The applicant shall request approval, as necessary, for road or lane closure/detour 30-days in advance of commencing project construction affecting such closure. Prior to Improvement Plan approval, the applicant shall provide a construction detour/signage plan for review and approval by the DPW. Construction within Placer County right-of-way may be limited to nighttime activities only. Construction requiring a road closure/detour on either PFE Road or Cook-Riolo Road will be allowed only during those times when the existing school is not in session and after consulting with the Dry Creek Joint Elementary School District.

**ADVISORY COMMENT:** The applicant is advised that all road closures and detours on public roads are subject to the discretionary approval of the Director of Public Works. The applicant is advised that such approval is not guaranteed by this condition. The applicant is further advised that half-street closures only will be considered and may

be allowed only for nighttime work. Additionally, along the proposed off-site sewer route, the County does not have easement rights along the south of PFE Road beyond prescriptive rights within the existing pavement. Significant costs may be associated with this construction.

## **GRADING**

16. The Environmental Site Assessment performed by Wallace-Kuhl and Associates, dated July 1999, indicated the presence of critically expansive soils or other soil problems which, if not corrected, would lead to structural defects.

For non-pad graded lots, prior to Improvement Plan approval the applicant shall submit to the DPW for review and approval, a soil investigation of each lot in the subdivision produced by a California Registered Civil or Geotechnical Engineer (Section 17953-17955 Government Code).

For pad graded lots, prior to Final Acceptance of project improvements or consideration of early Building Permits and after the completion of the pad grading for all lots, the applicant shall submit to the DPW for review and approval, a soil investigation of each lot produced by a California Registered Civil or Geotechnical Engineer (Section 17953-17955 Government Code).

The soil investigations shall include recommended corrective action that is likely to prevent structural damage to each proposed dwelling. In addition, the applicant shall include in the Development Notebook or modify the Development Notebook to include the soil problems encountered on each specific lot as well as the recommended corrective actions. A note shall be included on the Improvement Plans, CC&Rs, and the Informational Sheet filed with the Final Map(s), which indicates the requirements of this condition. Once approved by the DPW, two copies of the final soil investigations for each lot shall be provided to the DPW and one copy to the Building Department for their use.

## **ROADS/TRAILS**

17. Construct subdivision roads on-site, except the entry road from PFE Road to A Street as shown on the proposed Vesting Tentative Map. This standard is generally described as follows: Pavement width shall be 28' with a 2' curb and gutter section on each side. 4'-wide sidewalks (meandering not required) shall be constructed on one side of the road and located within the 12.5' multi-purpose easement. The 12.5' multi-purpose easement on same side of the roadway as the sidewalk shall be located behind a 5' landscape strip located at the back of curb for street trees. Street trees are to be planted between curb and sidewalk for all streets per Figure 2 (Page 57) and Figure 6 (Page 60) of the Dry Creek/West Placer Community Plan. E Street shall include pavement width necessary (8' minimum) to allow for 9 parallel parking spaces as depicted on the Vesting Tentative Map and shall include striping and/or signage necessary to delineate these parking spaces. The roads and storm drainage and sidewalks shall be maintained by the homeowners' association. All

subdivision streets shall be designed to meet 25-mph design speed criteria, as specified in the latest version of the *Caltrans Highway Design Manual* unless otherwise approved by DPW. The roadway structural sections shall be designed for a Traffic Index of 5.5 (Ref. Section 4, LDM). (CR) (DPW)

18. Construct the entry road from PFE Road to A Street as shown on the proposed Vesting Tentative Map, to an urban collector (Plate 10 LDM) standard along with a 14' median strip. This standard is generally described as follows: Pavement width shall be 16' per lane (32' total) with a 14' median strip along the centerline and 2' curb and gutter sections on each side. 4'-wide concrete sidewalks shall be constructed on each side of the road and located within the 12.5' multi-purpose easement. The road(s) and storm drainage shall be maintained by the homeowners' association. All subdivision streets shall be designed to meet 25-mph design speed criteria, as specified in the latest version of the *Caltrans Highway Design Manual* unless otherwise approved by DPW. The roadway structural section(s) shall be designed for a Traffic Index of 5.5 (Ref. Section 4, LDM). (CR) (DPW)
19. Construct a public road entrance onto PFE Road to a Plate 27, LDM standard. The design speed of the roadway shall be 55 mph, unless an alternate design speed is approved by the DPW. The improvements shall begin at the outside edge of any future lane(s) as directed by the DPW. An Encroachment Permit shall be obtained by the applicant or authorized agent from DPW. (CR) (DPW)
20. At all interior street intersections, meet sight distance standards of Plate 27, LDM. The design speed of the roadways shall be 25 mph, unless an alternate design speed is approved by the DPW. (CR) (DPW)
21. Construct a public road entrance onto Cook-Riolo Road to a Plate 27, LDM standard. The design speed for Cook-Riolo Road shall be 25 mph, unless an alternate design speed is approved by the DPW and CDF. The improvements shall begin at the outside edge of any future lane(s) as directed by the DPW. An Encroachment Permit shall be obtained by the applicant or authorized agent from DPW. This entrance to the subdivision is intended as an emergency access only and may be gated as approved by the CDF. Access shall be provided to the CDF and/or local fire protection district. (CR) (DPW)
22. Construct a westbound left-turn lane on PFE Road at the project entrance. Traffic striping shall be done by the developer's contractor. The removal of existing striping and other pavement markings shall be completed by the developer's contractor. The design shall conform to criteria specified in the latest version of the *Caltrans Highway Design Manual* for a design speed of 55 mph, unless an alternative is approved by DPW. (CR/MM) (DPW)

23. Construct one-half of a 32' road section where the project fronts PFE Road, as measured from the existing centerline thereof or as directed by DPW along with a 4' wide Class II Bike Lane and a minimum 5' wide meandering pedestrian and equestrian trail as shown on the proposed Vesting Tentative Map. The width of pavement to be reconstructed, as indicated in this condition, is to be considered in addition to the requirement to construct a westbound left-turn lane at the project entrance as indicated in Condition 18. Additional widening and/or reconstruction may be required to improve existing structural deficiencies, accommodate auxiliary lanes, intersection geometrics, signalization, bikelanes, or for conformance to existing improvements. The roadway structural section shall be designed for a Traffic Index of 8.5, but said section shall not be less than 3" AC/8" Class 2 AB unless otherwise approved by DPW. **(CR)** (DPW)
24. Streetlight(s), designed in accordance with the *American National Standard Practice for Roadway Lighting Manual* shall be provided and installed to the satisfaction of the DPW and PG&E at the intersection of PFE Road and the project entrance.  
**ADVISORY COMMENT:** Streetlights shall be of a type, height, and design to direct lighting downward, shielding, to the greatest extent practical, light exposure beyond that needed for proper intersection lighting. **(CR)** (DPW)
25. Delineate a Class II bikeway along the project's frontage on PFE Road pursuant to the Placer County Bikeways Master Plan. The location, width, alignment, and surfacing of the bikeway shall be subject to DPW/DRC review and approval. **(CR)** (DPW)
26. Public multi-use trails shall be provided in conjunction with the project as follows. Maintenance of all trails shall be by the CSA.
- A) The improvement plans shall include the following recreational facilities. A minimum 5'-wide (concrete) public multi-use trail easement through Lot(s) E & F on Cook Riolo Road frontage, as conceptually shown on the Tentative Map and approved by the DRC, in consultation with the Parks Division. The HOA must obtain an encroachment permit from DPW for any work within the public road. The sidewalk shall be located a minimum 10' from the edge of pavement of the adjoining street right-of-way, unless otherwise approved by DRC. The crossing of any wetland areas shall also be reviewed and approved by the DRC, Parks Division, and the Department of Fish and Game, and shall be bridged to provide public safety while preserving the existing wetlands habitat.
- Multi-use trails located along main thoroughfares shall be placed as far as practical from the traveled way, while remaining within the right-of-way. **(CR)**  
(DPW/PD/DFS)
- B) Recreation Amenities-Construct private PD recreation facilities within Lot A including tot lot, tennis court, picnic tables and BBQ's, pathways, and landscaping.

Natural materials and coloring shall be used to be compatible with the surrounding community. Maintenance shall be provided by the homeowners association.

27. A) The applicant shall reconstruct Cook-Riolo Road as required by DPW to repair those areas disturbed by construction of off-site improvements required by the conditions of approval. Repairs may include reconstruction of up to the entire existing width of pavement on Cook-Riolo Road, but it is not intended that these repairs exceed the existing pavement width. All repairs shall be designed to meet 45-mph design speed criteria, as specified in the latest version of the Caltrans *Highway Design Manual* unless otherwise approved by DPW. The roadway structural section(s) shall be designed for a Traffic Index of 8.0 (Ref. Section 4, LDM). Drainage, utilities, and appurtenances, adjacent to Cook-Riolo Road damaged due to construction of off-site improvements shall be repaired as required by DPW. This includes both publicly and privately owned facilities impacted by said construction. **(CR)** (DPW)
- B) The applicant shall reconstruct PFE Road as required by DPW to repair those areas disturbed by construction of off-site improvements. Repairs may include reconstruction of up to the entire existing width of pavement on PFE Road, but it is not intended that these repairs exceed the existing pavement width. All repairs shall be designed to meet 55-mph design speed criteria, as specified in the latest version of the Caltrans *Highway Design Manual* unless otherwise approved by DPW. The roadway structural section(s) shall be designed for a Traffic Index of 8.5 (Ref. Section 4, LDM). Drainage, utilities, and appurtenances adjacent to PFE Road damaged due to construction of off-site improvements shall be repaired as required by DPW. This includes both publicly and privately owned facilities impacted by said construction. **(CR)** (DPW)
28. Construct a Plate 7 (Placer County LDM standard) turnaround at the emergency access onto Cook-Riolo Road, or as otherwise approved by DPW. The turnaround is to be located between the emergency access gate and Cook-Riolo Road.

### **PUBLIC SERVICES**

29. Provide to DRC "will-serve" letters from the following public service providers prior to Improvement Plan and Final Map approvals, as required:
- A) **PG&E**
  - B) **Sewer Maintenance District CSA 28 Zone 173**
  - C) **PCWA Water District**
  - D) **Citizens Utilities**
  - E) **The Franchised Refuse Collection Company**
  - F) **Roseville Telephone**

If such "will serve" letters were obtained as a part of the environmental review process, and are still valid, they shall not be required again. **(CR)** (DPW)

30. Prior to the approval of the Improvement Plans, provide the DRC with proof of notification (in the form of a written notice or letter) of the proposed project to:

- A) Dry Creek Joint Elementary School District
- B) The Placer County Sheriff's Office **(CR)** (DPW)
- C) Roseville Joint Union High School District
- D) Center Unified School District

31. Create a County Service Area (CSA) Zone of Benefit or annex to an existing CSA Zone of Benefit, if appropriate. The CSA will be established concurrent with and on the Final Map. In the event that the CSA is abolished by the Board of Supervisors, or the CSA is otherwise not able to function, the homeowners' association shall be responsible for all services previously provided by the CSA. The CSA shall provide the following services:

**(CR)** (DFS)

A) Street lighting **(CR)**  
B) Maintenance of multi purpose trails along Cook Riolo and PFE Roads as required by Condition #26. **(CR)** The subdivision will be required to annex into the Dry Creek Park and Landscape CSA which was initially created by the CFD project. The CSA provides for maintenance of the Dry Creek open space, the community park site and two other public park sites, and the community trails which includes this subdivision's trails.

C) Collection of fees for regional storm drainage facilities and maintenance pursuant to the "Dry Creek Watershed Interim Drainage Improvement Ordinance", including any future revisions thereof. **(CR)**

D) The lots created as a part of this subdivision shall be a part of a CSA Zone of Benefit for the purpose of generating funds for the maintenance of park facilities in the area. **(CR)**

32. Prior to the issuance of a sewer will-serve letter and the recording of a final map, the property shall be annexed into Sewer Maintenance District CSA 28 Zone 173 and all appropriate fees be paid.

33. Prior to the issuance of a sewer will-serve letter and the recording of a final map, the property shall annexed into the CSA and pay all appropriate fees to that district.

**ADVISORY COMMENT:** Condition 32 and 33 are intended to implement the action of the Board of Supervisors in approving the reimbursement agreement in association with the issuance of bonds for the Dry Creek-West Placer Community Facilities District No. 2001-1, and the applicant is subject to payment of any applicable connection fees.

34. The tentative map for Willow Park indicates that the proposed sewer system for the development will be connected to the in tract sewer system for the Riolo Greens Subdivision. The sewer improvement plans for the Willow Park Subdivision shall be complete and stand-alone. The Willow Park sewer plans, including both on-site and off-site improvements, will include the connection to the Warner Property and PFE Road Sewer Extension project. The improvement plans for the Willow Park project shall include all applicable easements as necessary for construction of the sewer connection along PFE Road.
35. A deep sewer plus a water line are proposed in PFE Road . The entire subgrade and pavement, shoulder to shoulder, of PFE Road shall be re-built to the satisfaction of the Department of Public Works after the sewer and water lines are placed under it. (Planning, please coordinate this requirement with DPW)
36. A six inch public sewer stub shall be constructed at the intersection of the on-site road and Cook Riolo Road for sewer service to parcels on the east side of Cook Riolo Road.
37. Deleted
38. Once a public sewer system is constructed and is available for connections, prior to issuance of a Building Permit for this project, a Sewer Connection Permit will be required for each lot. The fees for this permit will be determined at the time of issuance. Any building sewer services, force mains and/or pumps will be the individual builder's cost and maintenance responsibility.

#### **GENERAL DEDICATIONS/EASEMENTS**

39. Provide the following easements/dedications on the Improvement Plans and Final Map to the satisfaction of the DPW and DRC: **(CR)** (DPW)
- a) A 32'-wide private road and public utility easement (Ref. Chapter 16, formerly Chapter 19, Placer County Code) along on-site subdivision roadways, as depicted on the Vesting Tentative Map, excepting the entry road from PFE Road to A Street. Said roads shall be maintained by the homeowners' association. **(CR)** (DPW)
- b) A 50'-wide private road and public utility easement (Ref. Chapter 16, formerly Chapter 19, Placer County Code) along the subdivision entry road from PFE Road to A Street. Said road shall be maintained by the homeowners' association. **(CR)** (DPW)
- c) Dedicate to Placer County one-half of a 120'-wide highway easement (Ref. Chapter 12, Article 12.08 (formerly Chapter 4, Subchapter 5, Placer County Code) where

the project fronts PFE Road, as measured from the centerline of the existing roadway, plan line, or other alignment as approved by the DPW. Prior to the approval of the Improvement Plans, the applicants shall provide documentation acceptable to County Counsel showing that the highway easements is free and clear of all easements, encumbrances or restrictions of record, including the water well easement recorded on November 16, 2000, in favor of Louis and Mary M. Jones. **(CR)** (DPW)

d) An Irrevocable Offer of Dedication to Placer County for a highway easement within the subdivision boundary (Ref. Chapter 12, Article 12.08 (formerly Chapter 4, Subchapter 5, Placer County Code) over Lots E & F as indicated on the Vesting Tentative Map. **(CR)** (DPW)

e) Dedicate or cause to be dedicated to Placer County right-of-way along PFE Road as necessary to construct off-site improvements, such as transitions, a left-turn lane, etc. at the project entrance.

f) Dedicate or cause to be dedicated to Placer County right-of-way along Cook-Riolo Road as necessary to construct off-site improvements such as transitions at the emergency access entrance.

g) Public utility easements as required by the serving utilities, excluding wetland preservation easements (WPE). **(CR)** (DPW)

h) Dedicate 12.5' multi-purpose easements adjacent to all highway easements. **(CR)** (DPW)

i) Slope easements for cuts and fills outside the highway easement. **(CR)** (DPW)

j) Drainage easements as appropriate. **(CR)** (DPW)

k) Designate a "no access" strip on Lot(s) 1, 60, 61, and 67 onto D Street as depicted on the proposed Vesting Tentative Map. **(CR)** (DPW)

l) **ADVISORY COMMENT:** Provide private easements for existing or relocated water lines, service/distribution facilities, valves, etc., as appropriate. **(CR)** (DPW)

m) Easements as required for installation and maintenance of neighborhood identification/entrance structures, soundwalls, fences and/or gates by the homeowners' association.

**ADVISORY COMMENT:** A hold harmless Encroachment Permit will be required of the developer during the Improvement Plan process for maintenance activities within highway easements. **(CR)** (DPW/PD)

n) Dedicate to Placer County a minimum 5'-wide public multi-use trail easement thru/along Lot(s) E & F, as shown on the Tentative Map. **(CR)** (DPW)

o) Dedicate to Placer County a highway and public utility easement (Ref. Article 12, formerly Chapter 4, Subchapter 5, Placer County Code) over Cook-Riolo Road as shown on the Vesting Tentative Map, including the area east of Lots E & F and west of the eastern property line of APN 023-260-024, as approved by the DPW. Easement documents shall be signed by all persons having any record title interest in the property, including the Trustee or Beneficiary of any Trust Deeds. **(CR)** (DPW)

## **VEGETATION AND OTHER SENSITIVE NATURAL AREAS**

40. A Landscape and Irrigation Plan, prepared by a licensed landscape architect or similar professional, shall be submitted and approved by the DRC which provides evergreen landscape screening and earthen berming along PFE and Cook Riolo Roads (Lots C, D, E, and F) and within available public road rights of way and within Lot A recreation area avoiding all protected wetlands.

Said Plan shall be submitted with the project's Improvement Plans and the landscaping shall be installed to the satisfaction of the County prior to the County's acceptance of the subdivision's improvements. All landscaping shall consist of native-appearing drought-tolerant plant species (no turf) with a water-conserving drip irrigation system to be installed by the developer prior to acceptance of the subdivision's improvements. The homeowners' association shall be responsible for the maintenance of said landscaping and irrigation.

Said Plan shall also provide each single family lot a minimum of two 15 gallon fast growing shade trees per residential lot street frontage. A uniform street tree theme shall be established which provides for summer shading and canopy tree coverage over the project's streets at maturity. The intent is to locate trees between the edge of pavement and the sidewalk per figure 2 (p. 57) and Figure 6 (p. 68) of the Dry Creek/West Placer Community Plan. No monitoring is required for these trees. Street trees are to be planted prior to issuance of a Certificate of Occupancy for each residential lot and maintained by the homeowner.

All areas that are disturbed within as part of subdivision improvements, shall be re-established with hydroseeding and planting. A vegetation monitoring program report, prepared by a licensed landscaping architect, shall be submitted annually to the Planning Department for a 2-year period. Said report will define areas that have been disturbed/replanted with a description of the seeding and/or planting materials, and status of re-established vegetation, including survival rate. Any corrective actions required are the responsibility of the homeowners' association.

A letter of credit or cash deposit in the amount of 125% of the accepted proposal shall be deposited with the Placer County Planning Department to assure performance of the monitoring program. Evidence of this deposit shall be provided to the satisfaction of the DRC. Violation of any components of the approved MMIP may result in enforcement activity per Placer County Environmental Review Ordinance Article 18.28.080, formerly Section 31.870, of the Placer County Code. An agreement between the applicant and the County shall be prepared which meets DRC approval that allows the County use of the deposit to assure performance of the MMIP in the event the homeowners' association reneges. **(CR/MMIP)** (PD/DFS)

41. Provide the DRC with a tree survey and arborist report (by an ISA Certified Arborist) depicting the exact location of all trees 6" dbh (diameter at breast height) or greater, or multiple trunk trees with an aggregate diameter of 10" dbh or greater, within 50' of any grading, road improvements, underground utilities, etc., from off-site improvements (*i.e.*, road improvements, underground utilities, etc.). The tree survey shall include the sizes (diameter at 4' above ground), species of trees, spot elevations, and approximate driplines. Trees to be saved, or removed shall be shown on the survey, and superimposed over the site/grading plan, as well as all proposed improvements, including any underground utilities. The survey report shall be reviewed and approved by the DRC prior to any development activity on-site, including preliminary clearing or grading. **(CR)** (PD)
42. In lieu of a portion of the mitigation for tree impacts defined in Condition #110, a contribution of \$100 per diameter inch at breast height for each tree removed or impacted shall be paid to the Placer County Tree Preservation Fund as determined appropriate by the DRC. If tree replacement mitigation fees are to be paid in the place of tree replacement mitigation planting, these fees must be paid prior to the filing of the Final Map.  
**ADVISORY COMMENT:** The unauthorized disturbance to the dripline of a tree to be saved shall be cause for the Planning Commission to consider revocation of this permit/ approval. **(CR/MM)**
43. No watering or irrigation of any kind shall be allowed within the dripline of native oak trees to be retained within the project boundaries. **(CR/MM)** (PD)
44. Permanent Protective Fencing: The applicant shall install permanent 3' redwood fencing, as approved by the DRC, with upright posts embedded in concrete along and around all restricted wetland preservation areas on Lot A and within Lots C and D where they adjoin Lots 64-67, 1 and 2. Such fencing shall provide a physical demarcation to future homeowners of the location of protected wetland areas as required by other conditions of this project. In addition, no solid fencing shall be constructed within Lots C, and D at the back of residential lots. All fencing shall be shown on the project Improvement Plans and maintained by the homeowners association. **(CR/MM)** (PD)

45. Temporary Construction Fencing: The applicant shall install a 4' tall, brightly colored (usually yellow or orange), synthetic mesh material fence (or an equivalent approved by the DRC) at the following locations prior to any construction equipment being moved on-site or any construction activities taking place:

1) Adjacent to any and all wetland preservation easements that are within 50' of any proposed construction activity;

2) At the limits of construction, outside the dripline of all trees 6" dbh (diameter at breast height), or 10" dbh aggregate for multi-trunk trees, within 50' of any grading, road improvements, underground utilities, or other development activity, or as otherwise shown on the Tentative Map;

No development of this site, including grading, will be allowed until this condition is satisfied. Any encroachment within these areas, including driplines of trees to be saved, must first be approved by the DRC. No grading, clearing, storage of equipment or machinery, etc., may occur until a representative of the DRC has inspected and approved all temporary construction fencing. This includes both on-site and off-site improvements. Efforts should be made to save trees where feasible. This may include the use of retaining walls, planter islands, pavers, or other techniques commonly associated with tree preservation.

Said fencing and a note reflecting this Condition shall be shown on the Improvement Plans. **(CR/MM)** (PD/DPW)

46. Wetland Preservation Areas: Areas located on Lot A as depicted on the Tentative Map, and described in Condition #V15 shall be defined and monumented as "Restricted Wetland Preservation Areas", and shown on the project Improvement/Grading Plans and Final Map.

The purpose of said easements is for the protection and preservation of on-site wetland/stream corridor habitats. A note shall be provided on the Final Map prohibiting any disturbances within said easements, including the placement of fill materials, lawn clippings, oil, chemicals, or trash of any kind within the easements; nor any grading or clearing activities, vegetation removal, grazing, or domestic landscaping and irrigation, including accessory structures, swimming pools, spas, and fencing (excepting that specifically required by these conditions). Trimming or other maintenance activity is allowed only for the benefit of fish, wildlife, fire protection, and water quality resources, and for the elimination of diseased growth, or as otherwise required by the fire department, and only with the written consent of DRC. A provision for the enforcement of this restriction by the homeowners' association shall be provided. **(CR/MM)** (PD/DPW)

47. Lot(s) A, B, C, D, E, and F shall be defined and monumented as common area lots to be owned and maintained (including the removal of unauthorized debris) by the homeowners' association.

The purpose of Lot A is to: 1) Protect existing wetlands; 2) Provide private recreational facilities for the project residents (picnic tables, tot lot, tennis court, and turf areas). The same use restrictions defined in Condition #46 apply to all restricted Wetland Preservation Areas. **(CR/MM)** (PD/DPW)

The purpose of Lots B, C, D, E, & F is to provide landscape screening and berming utilizing native appearing, drought tolerant plant species, fencing, and provide for multi-purpose public trails (Lots E & F).

a) Provide written evidence that compensatory habitat has been established through the purchase of mitigation credits at a County-qualified wetland mitigation bank. The amount of money required to purchase credits shall be equal to the amount necessary to replace wetland or riparian habitat acreage and resource values including compensation for temporal loss. The total amount of habitat to be replaced is .32 acres of wetland habitat, at a rate of 2:1. Evidence of payment, which describes the amount and type of habitat purchased at the bank site, must be provided to the County prior to issuance of Improvement Plans or Building Permits which would result in the degradation or loss of the habitat. The amount to be paid shall be the fee in effect at the time the Final Map is recorded or Use Permit is exercised (for guidance, if the Map were recorded today, the fee would be \$49,000 per acre for permanent and seasonal wetlands and/or \$70,000 per acre for vernal pools). **(SR/CR/MM)**

b) Construct wetland and/or riparian habitat in an off-site location acceptable to Placer County and any State or Federal resource agency with jurisdiction over the habitat. A wetland/riparian mitigation plan shall be reviewed and approved by Placer County and any affected State or Federal resource agency prior to initiation of construction of any compensatory habitat. **(FR/SR/CR/MM)**

48. Prior to any grading, in any phase, and during the raptor nesting season (March-July), a focused survey for raptor nests shall be conducted by a qualified raptor biologist in areas potentially affected by project implementation. A copy of the survey shall be provided by Placer County and the Department of Fish & Game. If construction is proposed to take place during the raptor breeding season, no construction activity shall take place within 500' of an active nest until the young have fledged (as determined by a qualified raptor biologist). Temporary construction fencing and signage as described herein, shall be installed at a minimum 500' radius around any trees containing protected nests. If an active raptor nest is identified onsite, appropriate mitigation measures should be developed and implemented in consultation with the Department of Fish & Game. Any necessary removal of mature trees containing stick nests may only occur during the non-breeding season (September 15 to February 15). The satisfaction of this condition shall be as determined by the DRC.

## FEES

49. **ADVISORY COMMENT:** This project is subject to the one-time payment of drainage improvement and flood control fees pursuant to the "Dry Creek Watershed Interim Drainage Improvement Ordinance" (Ref. Article 15.32, formerly Chapter 4, Subchapter 20, Placer County Code.) The current estimated development fee is \$180 per single family residence, payable to DPW prior to Building Permit issuance. The actual fee shall be that in effect at the time payment occurs. **(CR)** (DPW)
50. **ADVISORY COMMENT:** This project is subject to payment of annual drainage improvement and flood control fees pursuant to the "Dry Creek Watershed Interim Drainage Improvement Ordinance" (Ref. Article 15.32, formerly Chapter 4, Subchapter 20, Placer County Code). Prior to Building Permit issuance, the applicant shall cause the subject property to become a participant in the existing Dry Creek Watershed County Service Area for purposes of collecting these annual assessments. The current estimated annual fee is \$35, per single family residence. **(CR)** (DPW)
51. **ADVISORY COMMENT:** This project is subject to payment of traffic impact fees as prescribed by the *Placer County Road Network Traffic Limitation Zone and Traffic Fee Program*. The current estimated fee is \$3,261 per single family residence; however, the actual fee paid will be that in effect at the time payment occurs. This fee is payable prior to the issuance of any Building Permit on any lot or for any portion of the project. **(CR)** (DPW)
52. Fees shall be paid to Placer County for the development of park and recreation facilities pursuant to Article 16.08.100 or 16.20.228 (formerly Section 19.107 and Section 19.343) of the *Placer County Code*. This fee is to be paid prior to the recordation of the Final Map for use in Recreation Area #13, and is based on the project approval for 70 lots. The amount to be paid shall be twice the fee in effect at the time of Final Map recordation (for guidance, if the map were recorded today, the fee would be \$5,890 per residential lot. Said fees shall be used towards acquiring additional parklands and or providing facilities and equipment at the new county park site on Walerga Road.**(CR)** (PD)
53. Pursuant to Section 21089 (b) of the California Public Resources Code and Section 711.4 et. seq. of the Fish and Game Code, the approval of this permit/project shall not be considered final unless the specified fees are paid. The fees required are \$1,280 for projects with Negative Declarations. Without the appropriate fee, the Notice of Determination (which the County is required to file within 5 days of the project approval) is not operative, vested or final and shall not be accepted by the County Clerk. **(SR)** (PD)

54. This project is subject to the payment of the County's Capital Facilities Impact Fee pursuant to Article 15.30 of the Placer County Code. The applicable fee must be paid prior to issuance of a Building Permit, if required, or prior to issuance of a Business License or commencement of the use, if no Building Permit is required.

55. The applicant shall implement an offsite mitigation program, coordinated through the Placer County Air Pollution Control District, to offset the project's long-term ozone precursor emissions. In lieu of the applicant implementing their own offsite mitigation program the applicant could also contribute funding into the District's Offsite Air Quality Mitigation Fund in order to mitigate their project's long-term air quality impacts. The District would then use this money to reduce air pollutant emissions from existing sources throughout Placer County that are not currently required to reduce air pollutant emissions. This could include providing monetary incentives to owners of non-EPA certified woodstoves and replace them with the newer EPA certified Phase II wood burning devices or retrofitting existing high nitrogen oxide emitting engines with cleaner burning engines.

Based on this project's estimated emissions, the project would need to contribute \$11,187 (this is based on mitigating 100% of the nitrogen oxide emission potential from the new residences) into the Placer County Air Pollution Control District's air quality mitigation fund to reduce this project's long-term air quality impacts. The District will administer the offsite mitigation program in lieu of the applicant developing their own offsite mitigation program. Implementation of this measure prior to the filing of the Final Map would ensure that this project's long-term air quality impacts are adequately mitigated.

## **ENVIRONMENTAL HEALTH**

56. Construction noise emanating from any construction activities for which a Grading or Building Permit is required is prohibited on Sundays and Federal Holidays, and shall only occur:

- a) Monday through Friday, 6:00 am to 8:00 pm (during daylight savings)
- b) Monday through Friday, 7:00 am to 8:00 pm (during standard time)
- c) Saturdays, 8:00 am to 6:00 pm

In addition, temporary signs (4' x 4') shall be located throughout the project, as determined by the DRC, at key intersections depicting the above construction hour limitations. Said signs shall include a toll free public information phone number where surrounding residents can report violations and the developer/builder will respond and resolve noise violations. This condition shall be included on the Improvement Plans and shown in the development notebook.

**ADVISORY COMMENT:** Essentially, quiet activities, which do not involve heavy equipment or machinery, may occur at other times. Work occurring within an enclosed building, such as a house under construction with the roof and siding completed, may occur at other times as well.

The Planning Director is authorized to waive the time frames based on special circumstances, such as adverse weather conditions. (EHS/PD)

57. The owner or occupant of each residence in this project shall subscribe to weekly mandatory refuse collection services from the refuse collection franchise holder. The Homeowners association shall be responsible for refuse collection service to all non-residential facilities within the project on the same basis. **(CR)** (EHS)

58. The applicant shall provide documentation acceptable to Environmental Health Services that the existing water well located in the water well easement recorded on November 15, 2000, that is located in the right of way required to be dedicated under condition 39 (c) has been abandoned and destroyed in accordance with County and State requirements. This destruction shall be shown on the improvement plans and included in the engineers cost estimate. The applicant shall also provide evidence that any property that may have utilized the water well for domestic purposes has been provided with an acceptable replacement domestic water supply prior to the well abandonment.

ADVISORY COMMENT: In the event Cal Am water requires approval of a separate annexation and service connections for the two adjacent impacted parcels (023-260-025 and 023-260-022), the Willow Park Subdivision will be dependant on this separate project to provide public water to these adjacent parcels.

59. The project shall conform to the Noise Element of the Placer County General Plan and the environmental document. Construct a noise barrier to the satisfaction of the DRC between the project and between the project and the Dry Creek School. This barrier shall be a solid 6-foot tall barrier on the east side of lots 10 and 11 and along the north side of lot 10. The barrier shall be shown on the improvement plans. Maintenance of the barrier shall be the responsibility of the homeowners association. This noise barrier, including cross section views of relationship to building pad elevations, shall be shown on the Improvement Plans. Noise barrier shall be a double-sided wood fence and not masonry sound walls. **(CR/MM)** (EHS)

#### **AIR POLLUTION**

60. Prior to any land development burning, alternatives to burning must be evaluated. APCD burn permits will not be issued until alternatives are reviewed and proof of such review is included with an APCD permit to burn application. All land development burn applications and subsequent burning is subject to the APCD rules and regulations, including denial of burn permit applications.

61. Only U. S. EPA Phase II certified wood burning devices shall be installed in each residence. The total emission potential from each residence shall not exceed 7.5 grams per hour from wood burning devices.
62. HVAC units shall be equipped with PremAir (or other manufacturer) catalyst system if available and economically feasible at the time building permits are issued. The PremAir catalyst can convert up to 70% of ground level ozone that passes over the condenser coils into oxygen. The PremAir system is considered feasible if the additional cost is less than 10 percent of the base HVAC system.
63. Landscape with native drought-resistant species (plants, trees and bushes) to reduce the demand for gas powered landscape maintenance equipment.  
Advisory Comment: The applicant is encouraged to plant California native tree species in excess of that already required.
64. Use of low VOC coatings per District Rule 218 Architectural Coatings.

#### MISCELLANEOUS CONDITIONS

65. Approval of this Tentative Map is subject to the approval of the Board of Supervisors of a Rezoning to RS-B-20 PD 2.0 or a similar zone district which permits the project's proposed density and design. (SR) (PD)
66. Any entrance structure proposed by the applicant shall be reviewed and approved by the DRC, shown on the project Improvement Plans, and shall be located such that there is no interference with driver sight distance as determined by the DPW ~~and shall not be located within the right-of-way and shall not restrict vehicular access (ie. gated entry's prohibited)~~. Access along Cook Riolo Road is limited to emergency vehicle access only. An electronic vehicular gate and pedestrian gates are allowed at the subdivision's entrance on Canopy Tree Street at PFE Road, and the manual EVA gate at Bulrush Street will be replaced with a manual wrought iron gate and pedestrian gate. Further details are provided in Conditions of Approval 114 through 122. (PD)  
ADVISORY COMMENT: ~~Any entrance monument or structure erected within the front setback on any lot, within certain zone districts, shall not exceed 3' in height (Ref. Article 17.54.030, formerly Section 10.030, Placer County Zoning Ordinance).~~ (CR) (PD/DPW)
67. Prior to construction of any temporary parking lot(s) and/or the installation of temporary sales trailers on-site, the applicant shall provide security to the satisfaction of the DRC, based on an approved cost estimate, sufficient to guarantee removal of these facilities, and any related signage/temporary fencing, and revegetation of the disturbed areas within 30 days of discontinuing their intended use. Said security shall be payable to the Planning

Department and released to the applicant upon completion and acceptance by the County of required work. **(CR)** (PD)

68. Any temporary parking lot(s) shall be constructed as an all-weather surface capable of supporting a 40,000 pound fire truck. The design of the parking lot(s) shall be subject to DRC review and approval prior to construction. **(CR)** (DPW)
69. Any temporary model home sales office shall be used solely for the first sale of homes within the project. **(CR)** (PD)
70. All temporary real estate sales uses approved by this action shall expire two (2) years from the issuance of the Building Permit for each temporary sales trailer or model home unit. Applicant may apply for an extension of this permit. **(CR)** (PD)
71. Prior to Improvement Plan approval, the applicant shall obtain a recordable encroachment permit from the DPW to allow the homeowners' association to maintain landscaping, fences and trails within the PFE Road right-of-way.
72. All structures with plumbing fixtures, including model homes/sales trailers shall be connected to public sewer and treated domestic surface water as approved by the Division of Environmental Health.

### **CONDITIONS, COVENANTS, & RESTRICTIONS**

73. The project CC &R's shall provide for notification of future lot owners closest to the Citizens Utilities pump station and the Dry Creek School that these facilities may generate intermittent noises. Specifically that the school bus activities during bus staging generate noise during the 6:00 AM hour.
74. Prior to the filing of the Final Map, Conditions, Covenants, and Restrictions (CC&Rs) shall be prepared and submitted to and approved by the DPW, County Counsel, and other appropriate County Departments and shall contain provisions/notifications related to those issues raised elsewhere in these Conditions. **(CR)** (PD/DPW/EHS/APCD)
  - a) The applicants shall create a Homeowners' association with certain specified duties/responsibilities. **(CR)** (DPW)
  - b) None of the provisions required by this condition of approval shall be altered without the prior written consent of Placer County. **(CR)** (PD/DPW/EHS/APCD)

- c) A CSA to provide for street lighting maintenance at the project entrance only. In the event that the CSA is abolished by the Board of Supervisors, or the CSA is otherwise not able to function, the homeowners' association shall be responsible for the services provided by the CSA.
- d) Maintenance of structural storm water quality enhancement facilities (BMPs) and private park by the homeowners' association.
- e) Maintenance of on-site subdivision roadways.
- f) Maintenance of all common area parcels by the homeowners association.
- g) None of the provisions required by this condition of approval shall be altered without the prior written consent of Placer County.
- h) Notification to future lot owners regarding the annual drainage fee assessments pursuant to the "Dry Creek Watershed Interim Drainage Improvement Ordinance", including any future revisions thereof.
- i) Maintenance of emergency access gate(s) by the homeowners' association.
- j) Maintenance of landscaping and fences within PFE Road right-of-way.

**NOTIFICATION TO FUTURE BUYERS**

- 75. Prohibition against night lighting within all common area lots (except for streetlights).
- 76. Notification to all future owners regarding the provisions contained in Conditions #31 & 33, and that each owner will be taxed for their fair share of the financial infrastructure.
- 77. Notification to all future owners that any outdoor lighting shall be kept to a minimum and shielded such that direct rays from the lamp are directed downward and do not cross property lines.
- 78. Notification to all future owners that an annual monitoring report is required for a period of five (5) years for the replacement of oak trees, and for 2 years for the installation of landscaping within the project area. Any corrective action will be the responsibility of the homeowners' association/golf course operator, when warranted, for inspection and corrective work.

79. Notification to the future owners of all lots that no owner shall construct any structures including pools, and spas, nor place any fill materials, lawn clippings, oil, chemicals, or trash of any kind within any common open space areas, nor shall any grading, vegetation removal or alteration be permitted within these areas nor fencing or domestic landscaping (unless native/wetland species approved by the DRC). Trimming or other maintenance of natural vegetation and fire prevention purposes, and only with the written consent of the DRC. A provision for the enforcement of this restriction by the homeowners' association shall be provided.
80. Notification to all future lot owners of a listing of drought tolerant plant materials and information regarding drip irrigation and rain shut-off systems designed to conserve water.
81. Notification to future owners of the requirement for 2 street shade trees to be planted per residential street lot frontage (ie. four trees per corner lot)
82. Notification to the future owners that no structure, including fencing over 3' in height, may be installed in front setback areas as defined herein, except that fencing within side street side yard areas, as defined by Condition No. 105, may be placed as close as 21-feet from the back-of-curb within the side street side yard area. No side street side yard fencing shall exceed six feet in height, and no side street side yard fencing shall be placed within any public utility easement area. (Amended by the Planning Commission at its February 9, 2006 meeting).
83. Notification to future homeowners of the potential effects of agricultural operations that exist on adjoining properties and properties in the vicinity. This notice will include language to the effect that farm operators have a "right to farm" their lands despite potential nuisance to neighboring residences including noise, odors and/or the use of hazardous or toxic materials.
84. Notification to future owners of lots adjoining lots C, and D, that no solid fencing shall be allowed along their rear lot lines facing PFE and Cook Riolo Roads.
85. Notification to future owners and builders that permanent protective fencing located alongside Restricted Wetland Preservation Areas shall not be removed or altered without the express written permission of the homeowners' association and the DRC. **(CR/MM) (PD)**
86. Notification to all future owners that all outdoor lighting shall be shielded such that direct rays from the lamp are directed downward and do not cross property lines. Motion sensor lighting shall be encouraged to minimize night sky light pollution. **(CR/MM) (PD)**

87. Notification to all lot owners of the requirements to submit all building plans and site/grading plans to the homeowners' association Architectural Review Committee prior to submittal to Placer County for Building Permits. Building plans shall comply with architectural guidelines, building and garage setbacks, height restrictions, building coverage, and other conditions of approval. Efforts should be made to locate residences away from sensitive areas such as trees, rock outcrops, etc. **(CR/MM)** (PD)
88. Notification to the future owners of affected lots that are located adjacent to common area lots, regarding the provision of an access easement to the homeowners' association for maintaining fencing around the perimeter of such lots. A minimum 24-hour notification to affected homeowners shall be provided prior to any work by the homeowners' association. **(CR)** (PD)
89. Notification to all future lot owners that minimum setbacks for all structures, including any fencing over three-feet in height, shall be as follows, unless a greater setback is indicated within the Development Notebook that is described elsewhere in these conditions of approval: A) Front - 30'; B) Side – 10'; C) Rear - 20'; side street side yard – 21 feet from back-of-curb. Garages shall have a minimum 20' to the back of sidewalk or street property line, whichever is greater. Setbacks for pools and related equipment areas are defined in Placer County Code, Article 17.54.140, formerly Zoning Ordinance Section 10.082 B (5). **(CR)** (PD)
- In addition, the garage design standards contained in Condition #106 shall also be included in this notification.
- (Amended by the Planning Commission at its February 9, 2006 meeting).
90. Notification to all future lot owners of a listing of drought tolerant plant materials and information regarding drip irrigation systems designed to conserve water. **(CR)** (PD)
91. Notification to the future owners that no structures, including fencing over 3' in height, may be installed in front setback areas, including any property frontages along roadways. For side street side yard areas, no fencing over three-feet in height shall be installed closer than 21 feet to the associated back-of-curb. **(CR)** (PD) (Amended by the Planning Commission at its February 9, 2006 meeting).
92. Each new lot owner shall be provided with a copy of the Development Notebook page(s) applicable to the subject lot, including plot plans and all use restrictions. **(CR)** (PD)
93. The applicant shall obtain and distribute to all new and existing residences/occupants within the project boundary informational materials on the following topics: Open burning, woodburning, agricultural burning, air pollution, and transportation control measures (such as ridesharing, mass transit availability/schedules, computerized

ride-matching service, and other measures designed to reduce both the use of single-occupancy vehicles and vehicle miles traveled). Contact the APCD for updated information on these materials. **(MM)** (APCD)

94. Notification to all future owners that only Phase II EPA-certified woodburning devices can be installed in structures. **(MM)** (APCD)
95. The following items will be installed in each home: An electrical outlet at the front and back of a home for electrical yard equipment, and a gas outlet in the backyard for gas burning barbecues. **(MM)** (APCD)
96. If natural gas is made available to the project, all fireplaces installed in the project area shall be outfitted for natural gas. **(MM)** (APCD)
97. Electrical outlets shall be installed on the exterior walls of all buildings/residences to promote the use of electric landscape maintenance equipment. (APCD)
98. The developer shall install electric vehicle raceways (conduit only) in all garages. (APCD)
99. No storage of boats, trailers, recreational vehicles, campers, or inoperable vehicles within the project except to the side or rear of a residence, and screened from street view. **(CR)** (PD)
100. The applicant shall incorporate into CC&Rs limitations on the emission potential from woodburning fireplaces. The maximum emission potential from each residence shall not exceed 7.5 grams of particulate matter per hour. No open fireplaces without EPA certified devices shall be permitted.(APCD)

#### **DEVELOPMENT STANDARDS**

101. The Development Standards for this project are as follows:
102. The minimum lot width shall be as shown on the tentative map. **(CR)** (PD)
103. Pursuant to the Zoning Ordinance, setbacks apply to all structures and accessory structures. Setbacks for swimming pools/spas/pool equipment, etc. shall conform to Placer County Code, Article 17.54.140, formerly Zoning Ordinance Section 10.082 B (5). **(CR)** (PD)
104. In no case shall the face of a garage be closer than 20' to the back of sidewalk or street property line, whichever is more restrictive. **(CR)** (PD)

105. The structural setbacks for this Planned Development are as follows:
- A) Front (street) - 30' (minimum 20' from back of sidewalk to garage)
  - B) Sides - 10'
  - C) Rear - 20'
  - D) Side Street Side Yard – 21 feet from back-of-curb
  - E) Accessory structures/pools/spas per Zoning Ordinance Section 10.082 B (5).
- (CR) (PD)**  
(Amended by the Planning Commission at its February 9, 2006 meeting).

106. The following garage design standards shall apply to all houses constructed within this project:

- 1) The garage doors shall face the side of the lot, or;
- 2) The garage portion shall be recessed a minimum of 15 feet behind the front of the house ("front" meaning the forward-most portion of the house covered by roof), as measured at the garage door, with the width of the garage not to exceed 40% of the total width of the structure, or;
- 3) Any front-facing garage portion of a house:
  - a. shall be recessed at least 3 feet behind the front of the house (as "front" is defined above); and
  - b. shall have garage doors with raised panels and windows, or comparable design features, stained or painted to complement the color and style of the house; and
  - c. shall not exceed 40% of the total width of the structure (which width may include any side-loaded garages); and
  - d. shall have a design that includes one or more of the following architectural features appropriate to the specific architectural style of the home:
    - i) a trellis feature, in front of and spanning the width of the garage(s), at least 3 feet wide, which could serve to support plants, or;
    - ii) an off-set of at least 2 feet difference between the faces of the individual single-car width garage doors (not acceptable with a double car width garage door), or;
    - iii) a roof feature which creates the look of an individual gable roof (or other design appropriate to the style of the home) over one of the two garage doors, and is architecturally distinct from the roof over the second garage door, or;
    - iv) any architectural wall which generally connects the garage and the front of the house to enclose a courtyard and which extends at least 5 feet closer to the street than the face of the garage (any such wall, if within the front setback area shall not exceed 3' in height), or;
    - v) separate single-car width garage doors.

For any house where the design includes a side facing garage, the side of the garage facing the street shall be counted as part of the "front" of the home, and the measurement of width shall be the exterior width of that portion of the structure, referenced herein.

107. The maximum building coverage per residential lot in this Planned Development is per Zoning Ordinance Article 17.54.100, formerly Section 10.064 A. 2. C, unless otherwise specified in Condition #1. **(CR)** (PD)
108. Prior to the issuance of any building permits (including model homes) for each phase, a Development Notebook shall be submitted to the Planning Department and include plot plans for each lot in the project, depicting all dimensions, easements, setbacks, height limits and other restrictions which might affect the construction of structures on said lot. No Building Permits may be issued for the project until this Notebook is provided to and accepted by the DRC for format and content requirements for each phase. Upon Planning Departments acceptance of the Development Notebook, the applicant shall provide four copies of the final notebook for distribution to the Planning Department, Department of Public Works, Department of Environmental Health, and Air Pollution Control Department for their use in issuing building permits. **(CR)** (PD)
109. The maximum building height for this Planned Development is 30'. **(CR)** (PD)

#### **MITIGATION MONITORING**

110. A Mitigation Monitoring Implementation Program (MMIP) for the replacement of native oaks and other trees, prepared by an ISA certified arborist, Registered Forester, or Landscape Architect, shall be submitted to the Planning Department, in conjunction with the project's Improvement Plans for review and approval by the DRC. Said plan shall provide for inch for inch replacement for all onsite (178" dbh) and offsite (to be determined) impacted oaks and other native trees resulting from project improvements. Replacement trees shall be planted by the project developer within Common Area Lots and any residential lots determined appropriate by the DRC. The Plan shall include a site plan that indicates the trees' location, installation and irrigation requirements and other standards to ensure the successful planting and continued growth of these trees.
- Installation of all trees and irrigation systems must be completed prior to the County's acceptance of the subdivision's improvements. Access rights for monitoring and maintenance, if necessary, shall be provided to the homeowners' association.
- An annual monitoring report for a minimum period of 5 years from the date of installation, prepared by the above-cited professional, shall be submitted to the DRC for review and approval. Any corrective action shall be the responsibility of the homeowners' association.

Prior to the approval of the Improvement Plans, a Letter of Credit or cash deposit in the amount of 125% of the accepted proposal shall be deposited with the Placer County Planning Department to assure on-going performance of the monitoring program. Evidence of this deposit shall be provided to the satisfaction of the DRC. An amount equal to the cost for administrative and program review by the County shall be paid to Placer County and deducted from this deposit before the balance is returned to the applicant.

Violation of any components of the approved MMIP may result in enforcement activities per Placer County Environmental Review Ordinance, Article 18.28.080 (formerly Section 31.870). An agreement between the applicant and County shall be prepared which meets DRC approval that allows the County use of this deposit to assure performance of the MMIP in the event the homeowners' association reneges. **(SR/CR/MMIP) (PD)**

### **EXERCISE OF PERMIT**

111. The applicant shall prepare and submit to the Department of Public Works (DPW), a Final Subdivision Map which is in substantial conformance to the approved Tentative Map in accordance with Chapter 16 (formerly Chapter 19) of the Placer County Code; pay all current map check and filing fees. **(SR/CR) (DPW)**
112. The applicant shall have 36 months to exercise this Vesting Tentative Map and Conditional Use Permit. Unless exercised, this approval shall expire 36 months (January 22, 2005) after the final effective date of the Board of Supervisor's action on the REA-896.  
On February 10, 2005, the Planning Commission approved a two-year extension of time extending this approval thru January 22, 2007.
113. All portions of fencing, including side street side yard fencing, shall be outside the 12.5-foot or 17.5 – foot Multi-Purpose Easement (P.U.E), where applicable, as shown on “Willow Park Planned Development; Book AA, Page 41”. (Amended by the Planning Commission at its February 9, 2006 meeting).
114. The applicant shall obtain a Building Permit for the vehicular gates, pilasters, lighting and pedestrian gates from the Placer County Building Services Division.
115. Construct private gated entrance features on Canopy Tree Street and Bulrush Street that comply with the County’s Private Gated Entrance detail to the satisfaction of the ESD and servicing fire district(s) and as shown on the approved Entrance Gate exhibits (C-1 & C-2) dated October 9, 2015. The entrances shall provide for a vehicle turnaround in front of the gate such that a vehicle can turn around and enter into the County right-of-way in a forward direction. The Sight Distance triangle from Canopy Tree Road and Bulrush Street shall be maintained free of obstructions per County Standard Plate R-17 (including vegetation, fencing, etc.).

- 116. Prior to Building Permit issuance for the gated entrance features, the applicant shall process an abandonment of the Irrevocable Offer of Dedication to the public of an easement for road purposes over Lots E, F, & G which includes all of the private subdivision roadways within the Willow Park subdivision, as shown on the Final Map of Willow Park, Book AA of Maps at Page 41. Contact John Weber, DPW Right of Way Agent, (530) 745-7500, to initiate the Abandonment Process.**
- 117. Prior to Building Permit issuance, an Encroachment Permit shall be obtained from the DPW for the work related to the new private gated entrance feature on Canopy Tree Street at PFE Road and the replacement of the existing emergency access only gate on Bulrush Street at Cook Riolo Road.**
- 118. The face of all gates shall be a minimum of 40' from the edge of pavement of the street and shall open to allow a vehicle to stop without obstructing traffic on the public road (PFE Road and Cook Riolo Road). Gate entrances shall be at least two feet wider than the width of the traffic lane(s) serving the gate.**
- 119. Prior to Building Permit issuance, provide the ESD with a letter from the appropriate fire protection district(s) describing conditions under which service will be provided to this project.**
- 120. All Pedestrian Gates shall remain unlocked from dawn to dusk, seven days a week, 365 days per year.**
- 121. The gated entry and EVA entrance are subject to review and approval by the Development Review Committee (DRC). Such a review shall be conducted prior to the issuance of the Building Permits and shall include, but not be limited to: compatibility of architectural design and exterior colors, vehicular circulation, lighting and landscaping.**
- 122. The following is a list of conditions from the serving Fire District:**
- a) **Gate openings to be 2 feet wider than the roadway served.**
  - b) **Emergency vehicle access shall be provided by both a "Knox" over-ride switch or other device approved by the authority district.**
  - c) **An approved hammerhead, turn-around bulb or other means of turn-around shall be provided on the entry side of the gate. Turning radius shall allow for bumper overhang and ladder truck extension beyond front wheels**
  - d) **Gates shall automatically open from the interior without use of a special code or device. (Magnetic strip or pressure pad assemblies are acceptable).**
  - e) **All electric gates shall fail in the open position, i.e. loss of power, battery failure.**
  - f) **Vertical clearances shall be no less than 15'.**
  - g) **Gate shall be located no closer than 30' from the intersecting roadway ultimate edge of pavement.**

- h) Provide a separate personnel gate or opening sized and surfaced to allow for pedestrian and wheelchair access.
- i) Gate components shall be maintained in an operative condition at all times and replaced or repaired when defective.
- j) All future traffic calming projects shall have fire department approval.

123. The applicant shall, upon written request of the County, defend, indemnify, and hold harmless the County of Placer (County), the County Board of Supervisors, and its officers, agents, and employees, from any and all actions, lawsuits, claims, damages, or costs, including attorneys' fees awarded by a court, arising out of or relating to the processing and/or approval by the County of Placer of that certain development project known as Willow Creek Conditional Use Permit Modification PLN15-00454 (the Project). The applicant shall, upon written request of the County, pay or, at the County's option, reimburse the County for all costs for preparation of an administrative record required for any such action, including the costs of transcription, County staff time, and duplication. The County shall retain the right to elect to appear in and defend any such action on its own behalf regardless of any tender under this provision. This indemnification obligation is intended to include, but not be limited to, actions brought by third parties to invalidate any determination made by the County under the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) for the Project or any decisions made by the County relating to the approval of the Project. Upon request of the County, the applicant shall execute an agreement in a form approved by County Counsel incorporating the provisions of this condition. (County Counsel)

124. The Willow Park HOA shall provide to the Placer County Department of Public Works and Facilities, Environmental Engineering Division (EED) and assign a combination/code as identified by the EED for Utility staff to access through the proposed private vehicle entry gate. The required access code shall be implemented by the applicant and verified by the EED. Access shall be provided to the Placer County Department of Public Works and Facilities Utility staff on a 24-hour basis for regular sewer maintenance and emergency response. To obtain the Public Works and Facilities access code, call the EED at 530-889-6846. The combination/code identified by the EED shall not be changed unless otherwise approved by the EED prior to the change occurring.

# ATTACHMENT D



**HEARING DATE:** April 14, 2016  
**ITEM NO.:** 1  
**TIME:** 10:05 A.M.

**TO:** Placer County Planning Commission  
**FROM:** Development Review Committee  
**DATE:** March 21, 2016  
**SUBJECT:** Willow Park Planned Residential Development  
Conditional Use Permit Modification (PLN15-00454/CUP-2747)  
Addition of Vehicular Gated Main Entrance and Pedestrian Gates and  
Modification of Existing Emergency Vehicle Access Gate  
Categorical Exemption  
Supervisory District 1 (Duran)

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**COMMUNITY PLAN:** Dry Creek West Placer Community Plan

**COMMUNITY PLAN DESIGNATION:** Low Density Residential 1-2 Dwelling Units per Acre

**ZONING:** RS-AG-B-20 PD=2 (Residential Single-Family, combining Agriculture, combining Building Site with a minimum lot size of 20,000 square feet, combining Planned Residential Development with a maximum of two dwelling units per acre).

**STAFF PLANNER:** Lisa Carnahan

**LOCATION:** The Willow Park subdivision entrance/exit vehicular and pedestrian gates would be located at PFE Road at Canopy Tree Street, and the Emergency Vehicle Access (EVA) gate and pedestrian gate would be located at Bulrush Street at Cook Riolo Road.

**APPLICANT:** Michelle Engel, Willow Park Homeowners Association

**PROPOSAL:**

The Homeowner's Association for the Willow Park subdivision is requesting a Conditional Use Permit Modification to allow for an electronic vehicular gate and pedestrian gates at the entrance to the subdivision, as well as to replace the existing manual EVA gate at Bulrush Street and Cook Riolo Road with a wrought iron, manual gate and to add a pedestrian gate at that location.

**CEQA COMPLIANCE:**

The project is categorically exempt from environmental review pursuant to the provisions of Section 15303 of the California Environmental Quality Act Guidelines and Section 18.36.050(E) of the Placer County Environmental Review Ordinance (Class 3 – New Construction of Accessory Structures). The Planning Commission will be required to make a finding to this effect.

**PUBLIC NOTICES AND REFERRAL FOR COMMENTS:**

Public notices were mailed to property owners of record within 300 feet of the project site. Community Development Resource Agency staff and the Departments of Public Works, Environmental Health, Air Pollution Control District and the Dry Creek West Placer Municipal Advisory Council (MAC) were transmitted copies of the project plans and application for review and comment. All County comments have been addressed and conditions have been incorporated into the staff report. At the time this report was prepared, numerous comment letters had been received, and are included as Attachment F.

**PROJECT DESCRIPTION:**

The Homeowner's Association for the Willow Park subdivision is requesting a modification to the Conditions of Approval for the Willow Park Planned Residential Development Conditional Use Permit in order to allow for an electronic vehicular gate and two pedestrian gates at the entrance to the subdivision, as well as to replace the existing manual EVA gate at Bulrush Street and Cook Riolo Road with a wrought iron, manual gate and to add a pedestrian gate at that location. All three pedestrian gates would have lighted keypads, and would include an automatic system which locks the pedestrian gates from dusk to dawn. Lighting around the gates for safety and security purposes is also anticipated, and would include lights on the top of the pilasters.

As proposed, the entrance/exit gate system would be automated so that residents of the subdivision would not have to enter a code into the keypad for entrance into the community. As indicated on the attached site plan, the distance between the entry gate keypad and the existing edge of curb would leave sufficient room for residents to by-pass a visitor who is stopped at the keypad.

**BACKGROUND:**

The Vesting Tentative Subdivision Map and Conditional Use Permit for the Willow Park Planned Residential Development subdivision were approved by the Board of Supervisors in 2001. At the time of approval, Condition of Approval number 66 specifically prohibited gated entries.

The 76-lot, fully-developed, single-family residential subdivision provides for private on-site recreation facilities, which are maintained by the Home Owner's Association (HOA), along with the roads, sidewalks and trails. Due to increasing acts of vandalism and theft in recent years, as well as a desire for privacy due to growth in the area, the HOA has come forward with a request to install electronic gates at the entrance to the subdivision.

Until fairly recently, gate requests for subdivisions within the Dry Creek West Placer Community Plan area were not supported by either the MAC or the Planning Commission. However, within the past few years, four other residential subdivisions in the area have been approved for gated entries: the American Vineyard Village subdivision, located to the east on Vineyard Road, the Cabral Ranch subdivision, which is located on Cook Riolo Road, and most recently, the Morgan Creek and Morgan Greens subdivisions.

This project was originally scheduled to be heard at the February 25, 2016 Planning Commission hearing and was continued at staff's request to ensure the HOA Board had the authority to submit this application. Staff received correspondence from the HOA's attorney providing sufficient information to establish that the HOA Board has the authority under the CC&Rs to submit this application on behalf of the HOA (refer to Attachment C). Staff is aware that there is a dispute amongst some members of the HOA membership as to whether the vote held to consider the financing of the construction of the gate was adequate. This is a private dispute that is not germane to the proposed action before the Planning Commission as to whether or not to approve a modification of the use permit to allow for the installation of the gate.

**SITE CHARACTERISTICS:**

The fully developed subdivision was constructed on approximately 40 acres, and includes 7.8 acres of open space and private, on-site recreation facilities. The site is bordered on the north by PFE Road, and on the east, by Cook Riolo Road.

**EXISTING LAND USE AND ZONING:**

	<b>LAND USE</b>	<b>ZONING</b>	<b>EXISTING CONDITIONS AND IMPROVEMENTS</b>
SITE	Low Density Residential 1-2 Dwelling Units per Acre	RS-AG-B-20 PD=2 (Residential Single-Family, combining Agriculture, combining Building Site with a minimum lot size of 20,000 square feet, and a Planned Residential Development with a maximum of two dwelling units per acre).	76-unit residential subdivision
	<b>LAND USE</b>	<b>ZONING</b>	<b>EXISTING CONDITIONS AND IMPROVEMENTS</b>
NORTH	Low Density Residential 1-2 Dwelling Units per Acre	RS-AG-B-20(Residential Single-Family, combining Agriculture, combining Building Site with a minimum lot size of 20,000 square feet)	Single-family residential area
SOUTH	Sacramento County Line	Sacramento County zoning	Sacramento County Residential Subdivision
EAST	Low Density Residential 1-2 Dwelling Units per Acre	RS-AG-B-20(Residential Single-Family, combining Agriculture, combining Building Site with a minimum lot size of 20,000 square feet)	Dry Creek Joint Elementary School District Site
WEST	Low Density Residential 1-2 Dwelling Units per Acre	RS-AG-B-20(Residential Single-Family, combining Agriculture, combining Building Site with a minimum lot size of 20,000 square feet)	Single-family residential area

**DISCUSSION OF ISSUES:**

Zoning/Community Plan consistency

Installation of entrance features, including gates, is consistent with the Planned Residential Development zoning of the entrance areas. The entrance character of the subdivision will not be substantially altered with the addition of gates. While the Dry Creek West Placer Community Plan does not specifically prohibit gates, Goal 6 on page 51 of the Plan states that "It is a goal to create residential development which allows the following elements: Human interaction, bicycle and pedestrian circulation, an appropriate relationship to existing development in the area....".

Even with the proposed vehicular gate, public pedestrian and bicycle access to the subdivisions will still be maintained during the daylight hours, as the pedestrian gates are to remain unlocked from dawn to dusk. The question of whether or not vehicular gates are appropriate within the Dry Creek West Placer Community area is a policy question, ultimately determined by the Planning Commission. As stated earlier, three other subdivisions within the Dry Creek West Placer Community Plan area have been approved for gated entries within the past few years. As the Conditions of Approval for the Willow Park subdivision specifically prohibits gates, the Conditional Use Permit for the subdivision requires modification, subject to Planning Commission approval. Recommended revisions to the conditions of approval for the subdivision are included as Attachment A, and reflect the allowance for a gated entry.

### Aesthetics

The proposed gates would be constructed of a decorative wrought iron and would be a maximum of eight (8) feet tall at the highest point and two feet wider in width than the roadway served. Support columns for the gates would match those within the subdivision and would include lighting fixtures on top of the pilasters. A recommended condition of approval has been included which requires that any proposed lighting be fully shielded so that light is directed downward, and not up nor out.

Staff has determined that the inclusion of a gated entry, three pedestrian gates and replacement of the existing EVA gate with a different style of gate, along with any safety lighting would not create a significant visual impact on the entry areas.

### Land Use Consistency/Compatibility with Adjacent Uses

The proposed gates will be consistent with the character of the general area given that there have been three relatively recent Planning Commission approvals for gated entries to subdivisions within the Dry Creek West Placer Community Plan area. With that, and the fact that pedestrian and bicycle access for the general public will be maintained during the daylight hours, staff is in support of the HOA's request.

### Design Exception for the Gate Turn-Around Area

The project proposes a turn-around radius of 29.79 feet at the entrance gate, where 30 feet is standard. Staff has reviewed and found that this slight deviation still meets the intent of the standard design. The underlying reason for the large radius is to allow vehicles to turn around in front of the gate and enter the County Road in a forward facing direction. The proposed layout meets this requirement.

### **PUBLIC CORRESPONDENCE:**

At the time this staff report was prepared, numerous pieces of correspondence had been received from various residents within the Willow Park subdivision, both

objecting to the project and in support of the project. Some of the correspondence was directed to the MAC members specifically for the MAC meeting on March 9, 2016, and was therefore not included in this staff report. This report includes those pieces of correspondence which were directed to County staff and/or the Planning Commission.

**WEST PLACER MUNICIPAL ADVISORY COUNCIL RECOMMENDATION:**

The proposed project was presented to the West Placer Municipal Advisory Council (MAC) as an action item on February 10, 2016, at which time the MAC tabled the item due to a question over the validity of the HOA vote which took place (See Attachment G). The HOA Board asserted that only a 51 percent vote for the gate constituted approval, whereas the opponents of the gate asserted that a 67 percent positive vote was required for approval. The item returned to the MAC on March 9, 2016. The MAC informed the audience that it would not consider the question of the validity of the vote, but would instead, review the gates on their merits. They instructed the audience that the validity of the vote was a matter for the HOA members to resolve internally.

After a robust discussion from the audience, both in favor of and against the project, the MAC voted three to two to recommend denial of the gate proposal to the Planning Commission, based mostly upon the divisive outcome from the HOA members, the cost of the project and the subsequent financial burden on the homeowners. The main discussion items from the HOA members in favor of the gate centered on the perceptions that the gates would provide additional safety and that they would increase home values. Those not in favor of the gate project contended that they purposely moved to the subdivision because it was not a gated community, that the amount of money required per parcel was not affordable, that they did not want to have to pay for something they didn't want, and that the HOA vote was invalid because a 67 percent vote in favor of the gate was not obtained. To reiterate, the issue of whether or not the vote was invalid was not included within the decision which the MAC members made.

**RECOMMENDATION:**

Based upon the reasoning that there are no environmental grounds which would preclude the gates, and given that the proposed gates would be consistent with the character of the immediate area, where other subdivisions have similar gated entrances, the Development Review Committee recommends that the Planning Commission:

1. Find that the project is Categorical Exempt from CEQA; and
2. Approve Conditional Use Permit Modification to the Willow Park Conditional Use Permit (CUP 2747) to allow for an electronic vehicular gated entry with lighting and two pedestrian gates at the entrance to the subdivision, as well

as a modification of the existing Emergency Vehicle Access gate and the addition of a pedestrian gate at the Cook Riolo Road/Bulrush Street location, subject to the following findings and attached recommended conditions of approval in Attachment A.

**FINDINGS:**

CEQA:

The project is categorically exempt from environmental review pursuant to the provisions of Section 15303 of the California Environmental Quality Act Guidelines and Section 18.36.050(E) of the Placer County Environmental Review Ordinance (Class 3 – New Construction of Accessory Structures).

CONDITIONAL USE PERMIT MODIFICATION:

1. The installation of electronic vehicular gate and pedestrian gates for the community is consistent with the objectives, policies, general land uses and programs as specified in the Placer County General Plan, the Dry Creek West Placer Community Plan, and the surrounding community in that unimpeded pedestrian and bicycle access to the community and its amenities will still be available from dawn to dusk.
2. The proposed Conditional Use Permit Modification to allow gates is consistent with the Placer County Zoning Ordinance (Residential-Agricultural - Section 17.44.010 and Planned Residential Development – Section 17.52.120) in that the gates would meet the setback requirements, the support columns would be consistent with those already in use by the subdivision, and the pedestrian gates would provide for full pedestrian and bicycle access during the daytime hours.
3. The proposed gates will be consistent with the character of the immediate area, where other subdivisions have similar gated entrances, and will not be contrary to its orderly development.
4. The installation of a gated entry will not be detrimental to the health, safety, and general welfare of people residing or working in the neighborhood of the proposed use, and will not be detrimental or injurious to property or improvements in the neighborhood or the general welfare of the County.

Respectfully submitted,



Lisa Carnahan, Chairperson  
Development Review Committee

**ATTACHMENTS:**

- Attachment A - Recommended Modifications to Conditions of Approval
- Attachment B - Proposed Entrance and EVA Gate Site Plans
- Attachment C - Inman Law Group, LLP Letter dated March 9, 2016
- Attachment D - Western Placer MAC Meeting Minutes from March 9, 2016
- Attachment E - Placer County Fire Memo dated March 10, 2016
- Attachment F - Correspondence
- Attachment G - February 10, 2016 Letter from the President of the HOA, with HOA Voting Results

cc: Applicant  
Sarah Gillmore - Engineering and Surveying Division  
Laura Rath - Environmental Health Services  
Angel Green - Air Pollution Control District  
Andy Fisher - Parks Department  
Karin Schwab - County Counsel  
Michael Johnson - CDRA Director  
EJ Ivaldi - Deputy Director  
Andy Heath - CEO Office  
Subject/chrono files



**RECOMMENDED CONDITIONS OF APPROVAL -  
REZONING/TENTATIVE MAP/CONDITIONAL USE PERMIT -  
"WILLOW PARK PLANNED DEVELOPMENT" (REA-896/SUB-  
397/CUP-2747)**

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**THE FOLLOWING CONDITIONS SHALL BE SATISFIED BY THE APPLICANT, OR AN AUTHORIZED AGENT. THE SATISFACTORY COMPLETION OF THESE REQUIREMENTS SHALL BE DETERMINED BY THE DEVELOPMENT REVIEW COMMITTEE (DRC), COUNTY SURVEYOR, AND/OR THE PLANNING COMMISSION.**

1. This Vesting Tentative Map and Conditional Use Permit is approved for a 76 lot Planned Development on ±40 acres, including 7.8 acres of open space and private on-site recreation facilities. This project will be built in a single phase. Temporary real estate sales use are permitted as part of CUP approval for the first sale of lots within this subdivision.

On February 10, 2005, the Planning Commission approved a two-year extension of time. (Condition's 1, 29, 32, 33, 34, 35, 36, 38, 55, 56, 62, 63, and 112 were modified; condition 37 was deleted.)

On February 9, 2006, the Planning Commission approved the modification to allow for the establishment of a side street side yard setback of 21 feet, as measured from the back-of-curb, for the Willow Park residential subdivision. (Conditions # 82, 89, 91, and 105 were modified; Condition #113 was added.)

On May 25, 2006 the Planning Commission approved a Modification to the Conditional Use Permit to allow for an increase in the maximum allowable lot coverage for a two-story home to 30 percent on Lots 26, 29, 32, 33, 36, 38, 42, 49, 51, 68, 71, 72, 73; to 32 percent on Lot 30; and to 34 percent on Lot 70. (Condition #107 was modified.)

On April 14, 2016, the Planning Commission approved a Conditional Use Permit Modification (PLN15-00454) to allow an eight-foot tall, electronic vehicular gate which incorporates pilasters with lighting, and two pedestrian gates at the Canopy Tree Street entrance to the subdivision. In addition, the existing manual Emergency Vehicle Access gate at Cook Riolo Road and Bulrush Street will be replaced with a wrought iron manual gate and a pedestrian gate and shall remain an Emergency Vehicle Access gate. The pedestrian gates shall remain open to the public from dawn to dusk, seven days a week. Conditions 1 and 66 were modified, and new conditions 114, 115, 116, 117, 118, 119, 120, 121 and 122 were added.

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MAY, 2006  
APRIL, 2016**

2. The following Standard Condition #'s ip4, 7, 8, 15, 19, 20, 21, 24, 25, 26, 27; g4, 7; rt13, 15, 19; ps2, 5; v4, v5, v14; cr2; eh16; ap1, 2, 4; mc2, 10, 11, 15; n25, and 29, apply to this project as printed in Volume 7, Number 1, dated March 5, 2001 and as listed in condition 2 A) thru FF) as listed below.

A) Recreational Facilities: The Improvement Plans shall provide details of the construction of the proposed recreational facilities, public and private, both on- and off-site, for the review and approval of the DRC and County Parks Division (PD's). All recreation facilities shall be designed to meet Americans with Disabilities Act (ADA) Federal Guidelines and, where appropriate, the Consumer Product Safety Commission Guidelines (COSC), and the requirements of the American Society for Testing and Materials (ASTM). Approval shall be evidenced by signature of a Parks Division representative on the Improvement Plans. **(CR)** (PD/DFS)

B) The connection of each existing residence within this project to public sanitary sewers is required, shall be shown on the Improvement Plans, and shall be included in the engineer's estimate of costs for subdivision improvements. **(CR)** (EHS/DPW)

C) All proposed grading, drainage improvements, vegetation and tree removal shall be shown on the Improvement Plans and all work shall conform to provisions of the County Grading Ordinance (Ref. Article 15.48, formerly Chapter 29), Placer County Code) that are in effect at the time of submittal. No grading, clearing, or tree disturbance shall occur until the Improvement Plans are approved and all temporary construction fencing has been installed and inspected by a member of the DRC. All cut/fill slopes shall be at 2:1 (horizontal:vertical) unless a soils report supports a steeper slope and DPW concurs with said recommendation.

The applicant shall revegetate all disturbed areas. Revegetation undertaken from April 1 to October 1 shall include regular watering to ensure adequate growth. A winterization plan shall be provided with project Improvement Plans. It is the applicant's responsibility to assure proper installation and maintenance of erosion control/winterization during project construction. Where soil stockpiling or borrow areas are to remain for more than one construction season, proper erosion control measures shall be applied as specified in the Improvement Plans/Grading Plans. Provide for erosion control where roadside drainage is off of the pavement, to the satisfaction of the DPW.

Submit to the DPW a letter of credit or cash deposit in the amount of 110% of an approved engineer's estimate for winterization and permanent erosion control work prior to Improvement Plan approval to guarantee protection against erosion and improper grading practices. Upon the County's acceptance of improvements, and satisfactory completion of a

**OCTOBER, 2001**  
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one-year maintenance period, unused portions of said deposit shall be refunded to the project applicant or authorized agent.

If, at any time during construction, a field review by County personnel indicates a significant deviation from the proposed grading shown on the Improvement Plans, specifically with regard to slope heights, slope ratios, erosion control, winterization, tree disturbance, and/or pad elevations and configurations, the plans shall be reviewed by the DRC/DPW for a determination of substantial conformance to the project approvals prior to any further work proceeding. Failure of the DRC/DPW to make a determination of substantial conformance may serve as grounds for the revocation/modification of the project approval by the appropriate hearing body. **(SR/CR)** (DPW)

D) **ADVISORY COMMENT:** This project is subject to construction-related storm water permit requirements of the Federal Clean Water Act National Pollutant Discharge Elimination System (NPDES) program. Any required permits shall be obtained through the State Regional Water Quality Control Board or EPA. **(FR/SR)** (DPW)

E) If diversion of surface waters from existing channels and/or if existing or proposed reservoirs are to be included within this project, clearance for such works from the State Water Resources Control Board, Division of Water Rights, shall be obtained by the applicant and evidence of such clearance furnished to DPW prior to Improvement Plan approval. **(SR)** (DPW)

F) Provide the DPW with a letter from the appropriate fire protection district describing conditions under which service will be provided to this project. Said letter shall be provided prior to the approval of Improvement Plans, and a fire protection district representative's signature shall be provided on the plans. **(CR)** (DPW)

G) Extend a pressurized water system into the subdivision to County (Section 7 of the LDM) or fire district standards, whichever are greater. **(CR)** (DPW)

H) The Improvement Plans shall be approved by the water supply entity for water service, supply, and maintenance. The water supply entity shall submit to the Departments of Environmental Health Services and Public Works a "will-serve" letter or a "letter of availability" from the water district indicating that the agency has the ability and system capacity to provide the project's domestic and fire protection water quantity needs. **(CR)** (DPW/EHS)

I) An agreement shall be entered into between the developer and the utility companies specifically listing the party(ies) responsible for performance and financing of each segment of work relating to the utility installation. A copy of this agreement or a letter from the utilities stating such agreement has been made shall be submitted to the DPW prior to the filing of the Final Map(s). Under certain circumstances, the telephone company may

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not require any agreement or financial arrangements be made for the installation of underground facilities. If so, a letter shall be submitted which includes the statement that no agreement or financial arrangements are required for this development. **(CR)** (DPW)

J) Install cable TV conduit(s) in accordance with company or County specifications, whichever are appropriate. **(CR)** (DPW)

K) Submit, for review and approval, a striping and signing plan with the project Improvement Plans. The plan shall include all on- and off-site traffic control devices and shall be reviewed by the County Traffic Engineer. A construction signing plan shall also be provided with the Improvement Plans for review and approval by the County Traffic Engineer. **(CR)** (DPW)

L) In order to protect site resources, no grading activities of any kind may take place within the 100-year flood plain of the stream nor within the watershed of the vernal pool(s), unless otherwise approved as a part of this project. **(CR/MM)** (DPW/PD)

M) If blasting is required for the installation of site improvements, the developer will comply with applicable County Ordinances that relate to blasting and use only State licensed contractors to conduct these operations. (DPW)

N) Provide school bus turnout(s) to the satisfaction of the California Highway Patrol, local busing provider, and the DPW. A letter shall be provided from the CHP which addresses the turnout as shown on the project Improvement Plans prior to their approval. **(CR)** (DPW)

O) An Encroachment Permit shall be obtained from DPW prior to Improvement Plan approvals for any landscaping within public road rights-of-way. **(CR)** (DPW)

P) Proposed road names and alternatives shall be submitted to the local postal authority for written comments and shall be approved by the DPW prior to Improvement Plan approval. **(CR)** (DPW)

Q) Prior to the approval of the Improvement Plans, submit to Environmental Health Services a "will-serve" letter from the franchised refuse collector for weekly or more frequent refuse collection service. **(CR)** (EHS)

R) Prior to the approval of the Improvement Plans, confer with local postal authorities to determine requirements for locations of cluster mailboxes, if required. The applicant shall provide a letter to DRC from the postal authorities stating their satisfaction with the development road names and box locations, or a release from the necessity of providing cluster mailboxes prior to Improvement Plan approval. If clustering or special locations are specified, easements, concrete bases, or other mapped provisions shall be included in the development area and required improvements shall be shown on project Improvement Plans. **(FR/CR)** (DPW)

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S) **ADVISORY COMMENT:** This project may be subject to review and approval by the State Dept. of Fish & Game, National Marine Fisheries Services (NMFS), and/or the U. S. Army Corps of Engineers. It is the applicant's responsibility to obtain such approvals, if necessary, prior to any grading, clearing, or excavation. **(CR)** (PD/DPW)

T) Prior to approval of Improvement/Grading Plans, the applicant shall furnish to the DRC, evidence that the California Department of Fish & Game, the U. S. Army Corps of Engineers, the National Marine Fisheries Services (NMFS), and the U. S. Fish and Wildlife Service have been notified by certified letter regarding the existence of wetlands, including vernal pools on the property. If permits are required, they shall be obtained and copies submitted to DRC prior to any clearing, grading, or excavation work. **(FR/SR/CR)** (DPW/PD)

U) The wetlands report shall be field verified by the U.S. Army Corps of Engineers, the U. S. Fish and Wildlife Service, and the California Department of Fish & Game as deemed necessary by DRC prior to the filing of the Final Map. If significant discrepancies arise between the report and the field investigation of these agencies, the DRC shall schedule a hearing before the Planning Commission to consider revocation or modification of the project's permit approvals. **(FR/SR/CR/MM)** (PD)

V) If any archaeological artifacts, exotic rock (non-native), or unusual amounts of shell or bone are uncovered during any on-site construction activities, all work must stop immediately in the area and a SOPA-certified (Society of Professional Archaeologists) archaeologist retained to evaluate the deposit. The Placer County Planning Department and Department of Museums must also be contacted for review of the archaeological find(s).

If the discovery consists of human remains, the Placer County Coroner and Native American Heritage Commission must also be contacted. Work in the area may only proceed after authorization is granted by the Placer County Planning Department. A note to this effect shall be provided on the Improvement Plans for the project.

Following a review of the new find and consultation with appropriate experts, if necessary, the authority to proceed may be accompanied by the addition of development requirements which provide protection of the site and/or additional mitigation measures necessary to address the unique or sensitive nature of the site. **(SR/CR/MM)** (PD)

W) Properly destroy, under permit and inspection, the existing well(s) and septic system(s) located within the project site. Said destruction shall be shown on the Improvement Plans. **(CR)** (EHS)

X) The applicant shall submit a dust control plan to the APCD no later than 45 days prior to groundbreaking. The applicant shall not break ground prior to receiving APCD approval of the dust control plan. **(MM)** (APCD)

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Y) No open burning shall occur unless the applicant demonstrates, in writing, to the APCD that alternatives to open burning have been explored and that open burning is the only feasible method of disposal. The District's issuance of a Burn Permit will be dependent upon the applicant's successful demonstration that no other feasible method of disposal exists. Any burning must be done in conformance with APCD Regulation 3 (Open Burning). The burning of construction/demolition debris is prohibited. **(CR/MM)** (APCD)

Z) All woodburning devices installed in the project must be EPA-certified Phase II. Any fireplaces installed must have EPA-certified Phase II inserts. **(FR)** (APCD)

AA) No lot shall be further divided. **(CR)** (PD)

BB) During project construction, staking shall be provided pursuant to Section 5-1.07 of the County General Specifications. **(CR)** (DPW)

CC) Pursuant to Government Code, Section 66474.9(b), applicant(s) agrees as a condition of issuance and use of this Permit to defend, at their sole expense, any action brought against the County because of issuance of this Permit, or in the alternative, the relinquishment of such Permit. Applicant(s) will reimburse the County for any court costs and attorney's fees which the County may be awarded by a court, to pay, as a result of such action. The County may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve the applicant of their obligations under this condition. **(SR)** (PD)

DD) No on-site or off-site flags/pennants are permitted in connection with the model home sales use. **(CR)** (PD)

EE) Electrical outlets shall be installed on the exterior walls of all buildings/residences to promote the use of electric landscape maintenance equipment. (APCD)

FF) The developer shall install electric vehicle raceways (conduit only) in all garages. (APCD)

3. Following Tentative Map approval, but before submittal of Improvement Plans, the applicant shall provide the Planning Department with 5 full-size blue-line prints of the approved Tentative Map for distribution to other County departments.

## IMPROVEMENT PLANS

4. The applicant shall prepare and submit Improvement Plans, specifications and cost estimates (per the requirements of Section II of the Land Development Manual [LDM] that are in effect at the time of submittal) to the DPW for review and approval. The plans shall show all conditions for the project as well as pertinent topographical features both on- and off-site. All existing and proposed utilities and easements, on-site and adjacent to the

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project, which may be affected by planned construction, shall be shown on the plans. All landscaping and irrigation facilities within the public right-of-way (or public easements), or landscaping within sight distance areas at intersections, shall be included in the Improvement Plans. The applicant shall pay plan check and inspection fees. The cost of the above-noted landscape and irrigation facilities shall be included in the estimates used to determine these fees. It is the applicant's responsibility to obtain all required agency signatures on the plans and to secure department approvals. If the Design/Site Review process and/or DRC review is required as a condition of approval for the project, said review process shall be completed prior to submittal of Improvement Plans. Record drawings shall be prepared and signed by a California Registered Civil Engineer at the applicant's expense and shall be submitted to the DPW prior to acceptance by the County of site improvements.

**ADVISORY COMMENT:** Conceptual landscape plans submitted prior to project approval may require modification during the Improvement Plan process to resolve issues of drainage and traffic safety. **(SR/CR/MM)** (DPW)

**ADVISORY COMMENT:** Technical review of the Final Map shall not commence until the Improvement Plans are approved by the DPW. **(CR)**(DPW)

The applicant shall provide 5 copies of the approved Tentative Map and 2 copies of the approved conditions with the plan check application.

5. Staging Areas: Stockpiling and/or vehicle staging areas shall be identified on the Improvement Plans and located a minimum of 100' from the tributary to Dry Creek located in the southwest of the project, and preserved wetlands; and a minimum of 500' from any existing residences. **(CR/MM)** (DPW)
6. Equestrian/Pedestrian Trails: The Improvement Plans shall provide details of the location and specifications of all proposed equestrian/pedestrian trails per Condition #26, for the review and approval of the DRC and Parks Division. Said trails shall be installed prior to the County's acceptance of the subdivision's improvements, and all easements shall be shown on the Final Map. **(CR)** (PD/DFS)
7. Landscape Plan: The Improvement Plans shall provide details of the location and specifications of all proposed landscaping and irrigation per Condition #40, for the review and approval of the DRC (and Parks Division if maintenance is provided through a CSA). Said landscaping shall be installed prior to the County's acceptance of the subdivision's improvements. **(CR/MMIP)** (PD/DFS)

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8. Prepare and submit with the project Improvement Plans, a drainage report in conformance with the requirements of Section 5 of the LDM and the Placer County Storm Water Management Manual that are in effect at the time of submittal, to the DPW for review and approval. The report shall be prepared by a Registered Civil Engineer and shall, at a minimum, include: A written text addressing existing conditions, the effects of the improvements, all appropriate calculations, a watershed map, increases in downstream flows, proposed on- and off-site improvements and drainage easements to accommodate flows from this project. The report shall address storm drainage during construction and thereafter and shall propose "Best Management Practice" (BMP) measures to reduce erosion, water quality degradation, etc. Said BMP measures for this project shall include: Minimizing drainage concentration from impervious surfaces, construction management techniques, erosion protection at culvert outfall locations (cobble/rip-rap installation), silt fence/hay bale installation, avoidance of disturbance in areas outside of the area of construction, and revegetation of disturbed areas. The BMP's may include any, or all, of the following as approved by DPW. Other BMP's may be incorporated, subject to DPW approval. **(CR/MM)** (DPW)

A) Connection of house roof gutters directly to on-lot drainage swales. Provisions shall be included in the CC&R's to prevent future homeowner disturbance of swales designated to convey such drainage and to prevent direct connection to street gutters or storm drainpipes.

B) Label storm drainage inlets (i.e., "Do not dump; drains to Dry Creek").

C) Distribute education literature on proper disposal of liquids and other household hazardous materials.

D) Construction period BMP's shall include:

1) Minimize the area and length of time that the site is cleared and graded;

2) Revegetate/stabilization of cleared areas as soon as possible;

3) Implement a comprehensive erosion, dust and sediment control program;

4) Implement a program to control potential construction activity pollutants such as cement mortar, paints and solvents, fuel and lubricating oils, pesticides and herbicides;

5) Implement a hazardous material spill prevention, control and cleanup program;

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6) The above programs shall be prepared and submitted to DRC for review and approval prior to improvement plan approvals.

9. Storm drainage from on-site impervious surfaces shall be collected and routed through specially designed catchbasins, vaults, filters, etc. for entrapment of sediment, debris and oils/greases as approved by DPW. Maintenance of these facilities shall be provided by the homeowners' association unless, and until, a County Service Area is created and said facilities are accepted by the County for maintenance. Prior to Improvement Plan or Final Map approval, easements shall be created and offered for dedication to the County for maintenance and access to these facilities in anticipation of possible County maintenance. **(CR/MM)** (DPW)

10. Drainage facilities, for purposes of collecting runoff on individual lots, shall be designed in accordance with the requirements of the County Storm Water Management Manual that are in effect at the time of submittal, and to the satisfaction of DPW. These facilities shall be constructed with subdivision improvements and easements provided as required by DPW. Maintenance of these facilities shall be provided by the homeowners' association.

Urban drainage from this project shall not be allowed to directly enter protected or created wetlands. All residential lots shall be sloped toward the internal streets and the surface runoff shall be collected into the storm drain system or other provisions for collecting and transporting runoff from lots shall be provided to the satisfaction of DPW. **(CR/MM)** (DPW)

11. Show the limits of the 100-year flood plain for the tributary to Dry Creek located in the southwest corner of the project on the Improvement Plans and Informational Sheet(s) filed with the Final Map(s) and designate same as a building setback line unless greater setbacks are required by other conditions contained herein. **(CR/MM)** (DPW)

12. Show finished house pad elevations 2' above the 100-year flood plain line (or finished floor 3' above) for Lots adjacent to the above floodplain and in those areas presently below the 100-year flood elevation on the Improvement Plans and Informational Sheet filed with the Final Map. Pad elevations shall be certified by the project engineer on "As-Built" plans submitted to the DPW following project construction. Benchmark elevation and location shall be shown on the Improvement Plans and Informational Sheet to the satisfaction of DRC. **(CR/MM)** (DPW)

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13. Submit to DPW, for review and approval, a geotechnical engineering report produced by a California Registered Civil Engineer or Geotechnical Engineer. The report shall address and make recommendations on the following:

- A) Road, pavement, and parking area design
- B) Structural foundations, including retaining wall design
- C) Grading practices
- D) Erosion/winterization
- E) Special problems discovered on-site, (*i.e.*, groundwater, expansive/unstable soils, etc.)
- F) Slope stability
- G) Design of utility improvements in roadways (on and off-site) including recommendations regarding the advisability of maintaining through traffic during construction.
- H) Shoring necessary for utility construction

Once approved by the DPW, two copies of the final report shall be provided to the DPW and one copy to the Building Department for their use. If the soils report indicates the presence of critically expansive or other soils problems which, if not corrected, would lead to structural defects, additional investigations, prior to issuance of Building Permits, may be required for subdivisions. This shall be so noted in the CC&Rs and on the Informational Sheet filed with the Final Map(s). It is the responsibility of the developer to provide for engineering inspection and certification that earthwork has been performed in conformity with recommendations contained in the report. (SR/CR/MM) (DPW)

14. The applicant shall prepare a floodplain analysis for the proposed tributary crossing for the Park site access. The analysis shall be reviewed and approved by the Placer County Flood Control and Water Conservation District as well as the DPW, prior to approval of Improvement Plans. The analysis shall conform to the requirements of Section 5 of the LDM and the Placer County Storm Water Management Manual that are in effect at the time of submittal. The crossing shall not be allowed to impact the floodplain of the tributary. The intent of this condition is to ensure no impact occurs as a result of the crossing design and to provide evidence to that effect. (MM)

15. The applicant shall request approval, as necessary, for road or lane closure/detour 30-days in advance of commencing project construction affecting such closure. Prior to Improvement Plan approval, the applicant shall provide a construction detour/signage

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plan for review and approval by the DPW. Construction within Placer County right-of-way may be limited to nighttime activities only. Construction requiring a road closure/detour on either PFE Road or Cook-Riolo Road will be allowed only during those times when the existing school is not in session and after consulting with the Dry Creek Joint Elementary School District.

**ADVISORY COMMENT:** The applicant is advised that all road closures and detours on public roads are subject to the discretionary approval of the Director of Public Works. The applicant is advised that such approval is not guaranteed by this condition. The applicant is further advised that half-street closures only will be considered and may be allowed only for nighttime work. Additionally, along the proposed off-site sewer route, the County does not have easement rights along the south of PFE Road beyond prescriptive rights within the existing pavement. Significant costs may be associated with this construction.

## **GRADING**

16. The Environmental Site Assessment performed by Wallace-Kuhl and Associates, dated July 1999, indicated the presence of critically expansive soils or other soil problems which, if not corrected, would lead to structural defects.

For non-pad graded lots, prior to Improvement Plan approval the applicant shall submit to the DPW for review and approval, a soil investigation of each lot in the subdivision produced by a California Registered Civil or Geotechnical Engineer (Section 17953-17955 Government Code).

For pad graded lots, prior to Final Acceptance of project improvements or consideration of early Building Permits and after the completion of the pad grading for all lots, the applicant shall submit to the DPW for review and approval, a soil investigation of each lot produced by a California Registered Civil or Geotechnical Engineer (Section 17953-17955 Government Code).

The soil investigations shall include recommended corrective action that is likely to prevent structural damage to each proposed dwelling. In addition, the applicant shall include in the Development Notebook or modify the Development Notebook to include the soil problems encountered on each specific lot as well as the recommended corrective actions. A note shall be included on the Improvement Plans, CC&Rs, and the Informational Sheet filed with the Final Map(s), which indicates the requirements of this condition. Once approved by the DPW, two copies of the final soil investigations for each lot shall be provided to the DPW and one copy to the Building Department for their use.

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## ROADS/TRAILS

17. Construct subdivision roads on-site, except the entry road from PFE Road to A Street as shown on the proposed Vesting Tentative Map. This standard is generally described as follows: Pavement width shall be 28' with a 2' curb and gutter section on each side. 4'-wide sidewalks (meandering not required) shall be constructed on one side of the road and located within the 12.5' multi-purpose easement. The 12.5' multi-purpose easement on same side of the roadway as the sidewalk shall be located behind a 5' landscape strip located at the back of curb for street trees. Street trees are to be planted between curb and sidewalk for all streets per Figure 2 (Page 57) and Figure 6 (Page 60) of the Dry Creek/West Placer Community Plan. E Street shall include pavement width necessary (8' minimum) to allow for 9 parallel parking spaces as depicted on the Vesting Tentative Map and shall include striping and/or signage necessary to delineate these parking spaces. The roads and storm drainage and sidewalks shall be maintained by the homeowners' association. All subdivision streets shall be designed to meet 25-mph design speed criteria, as specified in the latest version of the *Caltrans Highway Design Manual* unless otherwise approved by DPW. The roadway structural sections shall be designed for a Traffic Index of 5.5 (Ref. Section 4, LDM). (CR) (DPW)
18. Construct the entry road from PFE Road to A Street as shown on the proposed Vesting Tentative Map, to an urban collector (Plate 10 LDM) standard along with a 14' median strip. This standard is generally described as follows: Pavement width shall be 16' per lane (32' total) with a 14' median strip along the centerline and 2' curb and gutter sections on each side. 4'-wide concrete sidewalks shall be constructed on each side of the road and located within the 12.5' multi-purpose easement. The road(s) and storm drainage shall be maintained by the homeowners' association. All subdivision streets shall be designed to meet 25-mph design speed criteria, as specified in the latest version of the *Caltrans Highway Design Manual* unless otherwise approved by DPW. The roadway structural section(s) shall be designed for a Traffic Index of 5.5 (Ref. Section 4, LDM). (CR) (DPW)
19. Construct a public road entrance onto PFE Road to a Plate 27, LDM standard. The design speed of the roadway shall be 55 mph, unless an alternate design speed is approved by the DPW. The improvements shall begin at the outside edge of any future lane(s) as directed by the DPW. An Encroachment Permit shall be obtained by the applicant or authorized agent from DPW. (CR) (DPW)

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20. At all interior street intersections, meet sight distance standards of Plate 27, LDM. The design speed of the roadways shall be 25 mph, unless an alternate design speed is approved by the DPW. **(CR)** (DPW)
21. Construct a public road entrance onto Cook-Riolo Road to a Plate 27, LDM standard. The design speed for Cook-Riolo Road shall be 25 mph, unless an alternate design speed is approved by the DPW and CDF. The improvements shall begin at the outside edge of any future lane(s) as directed by the DPW. An Encroachment Permit shall be obtained by the applicant or authorized agent from DPW. This entrance to the subdivision is intended as an emergency access only and may be gated as approved by the CDF. Access shall be provided to the CDF and/or local fire protection district. **(CR)** (DPW)
22. Construct a westbound left-turn lane on PFE Road at the project entrance. Traffic striping shall be done by the developer's contractor. The removal of existing striping and other pavement markings shall be completed by the developer's contractor. The design shall conform to criteria specified in the latest version of the Caltrans *Highway Design Manual* for a design speed of 55 mph, unless an alternative is approved by DPW. **(CR/MM)** (DPW)
23. Construct one-half of a 32' road section where the project fronts PFE Road, as measured from the existing centerline thereof or as directed by DPW along with a 4' wide Class II Bike Lane and a minimum 5' wide meandering pedestrian and equestrian trail as shown on the proposed Vesting Tentative Map. The width of pavement to be reconstructed, as indicated in this condition, is to be considered in addition to the requirement to construct a westbound left-turn lane at the project entrance as indicated in Condition 18. Additional widening and/or reconstruction may be required to improve existing structural deficiencies, accommodate auxiliary lanes, intersection geometrics, signalization, bikelanes, or for conformance to existing improvements. The roadway structural section shall be designed for a Traffic Index of 8.5, but said section shall not be less than 3" AC/8" Class 2 AB unless otherwise approved by DPW. **(CR)** (DPW)
24. Streetlight(s), designed in accordance with the *American National Standard Practice for Roadway Lighting Manual* shall be provided and installed to the satisfaction of the DPW and PG&E at the intersection of PFE Road and the project entrance.

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**ADVISORY COMMENT:** Streetlights shall be of a type, height, and design to direct lighting downward, shielding, to the greatest extent practical, light exposure beyond that needed for proper intersection lighting. **(CR)** (DPW)

25. Delineate a Class II bikeway along the project's frontage on PFE Road pursuant to the Placer County Bikeways Master Plan. The location, width, alignment, and surfacing of the bikeway shall be subject to DPW/DRC review and approval. **(CR)** (DPW)
26. Public multi-use trails shall be provided in conjunction with the project as follows. Maintenance of all trails shall be by the CSA.
- A) The improvement plans shall include the following recreational facilities. A minimum 5'-wide (concrete) public multi-use trail easement through Lot(s) E & F on Cook Riolo Road frontage, as conceptually shown on the Tentative Map and approved by the DRC, in consultation with the Parks Division. The HOA must obtain an encroachment permit from DPW for any work within the public road. The sidewalk shall be located a minimum 10' from the edge of pavement of the adjoining street right-of-way, unless otherwise approved by DRC. The crossing of any wetland areas shall also be reviewed and approved by the DRC, Parks Division, and the Department of Fish and Game, and shall be bridged to provide public safety while preserving the existing wetlands habitat.
- Multi-use trails located along main thoroughfares shall be placed as far as practical from the traveled way, while remaining within the right-of-way. **(CR)**  
(DPW/PD/DFS)
- B) Recreation Amenities-Construct private PD recreation facilities within Lot A including tot lot, tennis court, picnic tables and BBQ's, pathways, and landscaping. Natural materials and coloring shall be used to be compatible with the surrounding community. Maintenance shall be provided by the homeowners association.
27. A) The applicant shall reconstruct Cook-Riolo Road as required by DPW to repair those areas disturbed by construction of off-site improvements required by the conditions of approval. Repairs may include reconstruction of up to the entire existing width of pavement on Cook-Riolo Road, but it is not intended that these repairs exceed the existing pavement width. All repairs shall be designed to meet 45-mph design speed criteria, as specified in the latest version of the Caltrans *Highway Design Manual* unless otherwise approved by DPW. The roadway structural section(s) shall be designed for a Traffic Index of 8.0 (Ref. Section 4, LDM). Drainage, utilities, and appurtenances, adjacent to Cook-Riolo Road damaged due to construction of off-site improvements shall

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be repaired as required by DPW. This includes both publicly and privately owned facilities impacted by said construction. **(CR)** (DPW)

B) The applicant shall reconstruct PFE Road as required by DPW to repair those areas disturbed by construction of off-site improvements. Repairs may include reconstruction of up to the entire existing width of pavement on PFE Road, but it is not intended that these repairs exceed the existing pavement width. All repairs shall be designed to meet 55-mph design speed criteria, as specified in the latest version of the Caltrans *Highway Design Manual* unless otherwise approved by DPW. The roadway structural section(s) shall be designed for a Traffic Index of 8.5 (Ref. Section 4, LDM). Drainage, utilities, and appurtenances adjacent to PFE Road damaged due to construction of off-site improvements shall be repaired as required by DPW. This includes both publicly and privately owned facilities impacted by said construction. **(CR)** (DPW)

28. Construct a Plate 7 (Placer County LDM standard) turnaround at the emergency access onto Cook-Riolo Road, or as otherwise approved by DPW. The turnaround is to be located between the emergency access gate and Cook-Riolo Road.

## **PUBLIC SERVICES**

29. Provide to DRC "will-serve" letters from the following public service providers prior to Improvement Plan and Final Map approvals, as required:
- A) **PG&E**
  - B) **Sewer Maintenance District CSA 28 Zone 173**
  - C) **PCWA Water District**
  - D) **Citizens Utilities**
  - E) **The Franchised Refuse Collection Company**
  - F) **Roseville Telephone**

If such "will serve" letters were obtained as a part of the environmental review process, and are still valid, they shall not be required again. **(CR)** (DPW)

30. Prior to the approval of the Improvement Plans, provide the DRC with proof of notification (in the form of a written notice or letter) of the proposed project to:
- A) **Dry Creek Joint Elementary School District**

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- B) The Placer County Sheriff's Office **(CR)** (DPW)
- C) Roseville Joint Union High School District
- D) Center Unified School District

31. Create a County Service Area (CSA) Zone of Benefit or annex to an existing CSA Zone of Benefit, if appropriate. The CSA will be established concurrent with and on the Final Map. In the event that the CSA is abolished by the Board of Supervisors, or the CSA is otherwise not able to function, the homeowners' association shall be responsible for all services previously provided by the CSA. The CSA shall provide the following services:

**(CR)** (DFS)

- A) Street lighting **(CR)**
- B) Maintenance of multi purpose trails along Cook Riolo and PFE Roads as required by Condition #26. **(CR)** The subdivision will be required to annex into the Dry Creek Park and Landscape CSA which was initially created by the CFD project. The CSA provides for maintenance of the Dry Creek open space, the community park site and two other public park sites, and the community trails which includes this subdivision's trails.

- C) Collection of fees for regional storm drainage facilities and maintenance pursuant to the "Dry Creek Watershed Interim Drainage Improvement Ordinance", including any future revisions thereof. **(CR)**

- D) The lots created as a part of this subdivision shall be a part of a CSA Zone of Benefit for the purpose of generating funds for the maintenance of park facilities in the area. **(CR)**

32. Prior to the issuance of a sewer will-serve letter and the recording of a final map, the property shall be annexed into Sewer Maintenance District CSA 28 Zone 173 and all appropriate fees be paid.

33. Prior to the issuance of a sewer will-serve letter and the recording of a final map, the property shall annexed into the CSA and pay all appropriate fees to that district.

**ADVISORY COMMENT:** Condition 32 and 33 are intended to implement the action of the Board of Supervisors in approving the reimbursement agreement in association with the issuance of bonds for the Dry Creek-West Placer Community Facilities District No. 2001-1, and the applicant is subject to payment of any applicable connection fees.

34. The tentative map for Willow Park indicates that the proposed sewer system for the development will be connected to the in tract sewer system for the Riolo Greens

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Subdivision. The sewer improvement plans for the Willow Park Subdivision shall be complete and stand-alone. The Willow Park sewer plans, including both on-site and off-site improvements, will include the connection to the Warner Property and PFE Road Sewer Extension project. The improvement plans for the Willow Park project shall include all applicable easements as necessary for construction of the sewer connection along PFE Road.

35. A deep sewer plus a water line are proposed in PFE Road . The entire subgrade and pavement, shoulder to shoulder, of PFE Road shall be re-built to the satisfaction of the Department of Public Works after the sewer and water lines are placed under it. (Planning, please coordinate this requirement with DPW)
36. A six inch public sewer stub shall be constructed at the intersection of the on-site road and Cook Riolo Road for sewer service to parcels on the east side of Cook Riolo Road.
37. Deleted
38. Once a public sewer system is constructed and is available for connections, prior to issuance of a Building Permit for this project, a Sewer Connection Permit will be required for each lot. The fees for this permit will be determined at the time of issuance. Any building sewer services, force mains and/or pumps will be the individual builder's cost and maintenance responsibility.

#### **GENERAL DEDICATIONS/EASEMENTS**

39. Provide the following easements/dedications on the Improvement Plans and Final Map to the satisfaction of the DPW and DRC: **(CR)** (DPW)
  - a) A 32'-wide private road and public utility easement (Ref. Chapter 16, formerly Chapter 19, Placer County Code) along on-site subdivision roadways, as depicted on the Vesting Tentative Map, excepting the entry road from PFE Road to A Street. Said roads shall be maintained by the homeowners' association. **(CR)** (DPW)
  - b) A 50'-wide private road and public utility easement (Ref. Chapter 16, formerly Chapter 19, Placer County Code) along the subdivision entry road from PFE Road to A Street. Said road shall be maintained by the homeowners' association. **(CR)** (DPW)

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c) Dedicate to Placer County one-half of a 120'-wide highway easement (Ref. Chapter 12, Article 12.08 (formerly Chapter 4, Subchapter 5, Placer County Code) where the project fronts PFE Road, as measured from the centerline of the existing roadway, plan line, or other alignment as approved by the DPW. Prior to the approval of the Improvement Plans, the applicants shall provide documentation acceptable to County Counsel showing that the highway easements is free and clear of all easements, encumbrances or restrictions of record, including the water well easement recorded on November 16, 2000, in favor of Louis and Mary M. Jones. **(CR)** (DPW)

d) An Irrevocable Offer of Dedication to Placer County for a highway easement within the subdivision boundary (Ref. Chapter 12, Article 12.08 (formerly Chapter 4, Subchapter 5, Placer County Code) over Lots E & F as indicated on the Vesting Tentative Map. **(CR)** (DPW)

e) Dedicate or cause to be dedicated to Placer County right-of-way along PFE Road as necessary to construct off-site improvements, such as transitions, a left-turn lane, etc. at the project entrance.

f) Dedicate or cause to be dedicated to Placer County right-of-way along Cook-Riolo Road as necessary to construct off-site improvements such as transitions at the emergency access entrance.

g) Public utility easements as required by the serving utilities, excluding wetland preservation easements (WPE). **(CR)** (DPW)

h) Dedicate 12.5' multi-purpose easements adjacent to all highway easements. **(CR)** (DPW)

i) Slope easements for cuts and fills outside the highway easement. **(CR)** (DPW)

j) Drainage easements as appropriate. **(CR)** (DPW)

k) Designate a "no access" strip on Lot(s) 1, 60, 61, and 67 onto D Street as depicted on the proposed Vesting Tentative Map. **(CR)** (DPW)

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l) **ADVISORY COMMENT:** Provide private easements for existing or relocated water lines, service/distribution facilities, valves, etc., as appropriate. (CR) (DPW)

m) Easements as required for installation and maintenance of neighborhood identification/entrance structures, soundwalls, fences and/or gates by the homeowners' association.

**ADVISORY COMMENT:** A hold harmless Encroachment Permit will be required of the developer during the Improvement Plan process for maintenance activities within highway easements. (CR) (DPW/PD)

n) Dedicate to Placer County a minimum 5'-wide public multi-use trail easement thru/along Lot(s) E & F, as shown on the Tentative Map. (CR) (DPW)

o) Dedicate to Placer County a highway and public utility easement (Ref. Article 12, formerly Chapter 4, Subchapter 5, Placer County Code) over Cook-Riolo Road as shown on the Vesting Tentative Map, including the area east of Lots E & F and west of the eastern property line of APN 023-260-024, as approved by the DPW. Easement documents shall be signed by all persons having any record title interest in the property, including the Trustee or Beneficiary of any Trust Deeds. (CR) (DPW)

#### **VEGETATION AND OTHER SENSITIVE NATURAL AREAS**

40. A Landscape and Irrigation Plan, prepared by a licensed landscape architect or similar professional, shall be submitted and approved by the DRC which provides evergreen landscape screening and earthen berming along PFE and Cook Riolo Roads (Lots C, D, E, and F) and within available public road rights of way and within Lot A recreation area avoiding all protected wetlands.

Said Plan shall be submitted with the project's Improvement Plans and the landscaping shall be installed to the satisfaction of the County prior to the County's acceptance of the subdivision's improvements. All landscaping shall consist of native-appearing drought-tolerant plant species (no turf) with a water-conserving drip irrigation system to be installed by the developer prior to acceptance of the subdivision's improvements. The homeowners' association shall be responsible for the maintenance of said landscaping and irrigation.

Said Plan shall also provide each single family lot a minimum of two 15 gallon fast growing shade trees per residential lot street frontage. A uniform street tree theme shall be

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established which provides for summer shading and canopy tree coverage over the project's streets at maturity. The intent is to locate trees between the edge of pavement and the sidewalk per figure 2 (p. 57) and Figure 6 (p. 68) of the Dry Creek/West Placer Community Plan. No monitoring is required for these trees. Street trees are to be planted prior to issuance of a Certificate of Occupancy for each residential lot and maintained by the homeowner.

All areas that are disturbed within as part of subdivision improvements, shall be re-established with hydroseeding and planting. A vegetation monitoring program report, prepared by a licensed landscaping architect, shall be submitted annually to the Planning Department for a 2-year period. Said report will define areas that have been disturbed/replanted with a description of the seeding and/or planting materials, and status of re-established vegetation, including survival rate. Any corrective actions required are the responsibility of the homeowners' association.

A letter of credit or cash deposit in the amount of 125% of the accepted proposal shall be deposited with the Placer County Planning Department to assure performance of the monitoring program. Evidence of this deposit shall be provided to the satisfaction of the DRC. Violation of any components of the approved MMIP may result in enforcement activity per Placer County Environmental Review Ordinance Article 18.28.080, formerly Section 31.870, of the Placer County Code. An agreement between the applicant and the County shall be prepared which meets DRC approval that allows the County use of the deposit to assure performance of the MMIP in the event the homeowners' association reneges. **(CR/MMIP)** (PD/DFS)

41. Provide the DRC with a tree survey and arborist report (by an ISA Certified Arborist) depicting the exact location of all trees 6" dbh (diameter at breast height) or greater, or multiple trunk trees with an aggregate diameter of 10" dbh or greater, within 50' of any grading, road improvements, underground utilities, etc., from off-site improvements (*i.e.*, road improvements, underground utilities, etc.). The tree survey shall include the sizes (diameter at 4' above ground), species of trees, spot elevations, and approximate driplines. Trees to be saved, or removed shall be shown on the survey, and superimposed over the site/grading plan, as well as all proposed improvements, including any underground utilities. The survey report shall be reviewed and approved by the DRC prior to any development activity on-site, including preliminary clearing or grading. **(CR)** (PD)
  
42. In lieu of a portion of the mitigation for tree impacts defined in Condition #110, a contribution of \$100 per diameter inch at breast height for each tree removed or impacted

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shall be paid to the Placer County Tree Preservation Fund as determined appropriate by the DRC. If tree replacement mitigation fees are to be paid in the place of tree replacement mitigation planting, these fees must be paid prior to the filing of the Final Map.

**ADVISORY COMMENT:** The unauthorized disturbance to the dripline of a tree to be saved shall be cause for the Planning Commission to consider revocation of this permit/ approval. **(CR/MM)**

43. No watering or irrigation of any kind shall be allowed within the dripline of native oak trees to be retained within the project boundaries. **(CR/MM)** (PD)

44. Permanent Protective Fencing: The applicant shall install permanent 3' redwood fencing, as approved by the DRC, with upright posts embedded in concrete along and around all restricted wetland preservation areas on Lot A and within Lots C and D where they adjoin Lots 64-67, 1 and 2. Such fencing shall provide a physical demarcation to future homeowners of the location of protected wetland areas as required by other conditions of this project. In addition, no solid fencing shall be constructed within Lots C, and D at the back of residential lots. All fencing shall be shown on the project Improvement Plans and maintained by the homeowners association. **(CR/MM)** (PD)

45. Temporary Construction Fencing: The applicant shall install a 4' tall, brightly colored (usually yellow or orange), synthetic mesh material fence (or an equivalent approved by the DRC) at the following locations prior to any construction equipment being moved on-site or any construction activities taking place:

1) Adjacent to any and all wetland preservation easements that are within 50' of any proposed construction activity;

2) At the limits of construction, outside the dripline of all trees 6" dbh (diameter at breast height), or 10" dbh aggregate for multi-trunk trees, within 50' of any grading, road improvements, underground utilities, or other development activity, or as otherwise shown on the Tentative Map;

No development of this site, including grading, will be allowed until this condition is satisfied. Any encroachment within these areas, including driplines of trees to be saved, must first be approved by the DRC. No grading, clearing, storage of equipment or machinery, etc., may occur until a representative of the DRC has inspected and approved all temporary construction fencing. This includes both on-site and off-site improvements. Efforts should be made to save trees where feasible. This may include the use of retaining

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walls, planter islands, pavers, or other techniques commonly associated with tree preservation.

Said fencing and a note reflecting this Condition shall be shown on the Improvement Plans. **(CR/MM)** (PD/DPW)

46. Wetland Preservation Areas: Areas located on Lot A as depicted on the Tentative Map, and described in Condition #V15 shall be defined and monumented as "Restricted Wetland Preservation Areas", and shown on the project Improvement/Grading Plans and Final Map.

The purpose of said easements is for the protection and preservation of on-site wetland/stream corridor habitats. A note shall be provided on the Final Map prohibiting any disturbances within said easements, including the placement of fill materials, lawn clippings, oil, chemicals, or trash of any kind within the easements; nor any grading or clearing activities, vegetation removal, grazing, or domestic landscaping and irrigation, including accessory structures, swimming pools, spas, and fencing (excepting that specifically required by these conditions). Trimming or other maintenance activity is allowed only for the benefit of fish, wildlife, fire protection, and water quality resources, and for the elimination of diseased growth, or as otherwise required by the fire department, and only with the written consent of DRC. A provision for the enforcement of this restriction by the homeowners' association shall be provided. **(CR/MM)** (PD/DPW)

47. Lot(s) A, B, C, D, E, and F shall be defined and monumented as common area lots to be owned and maintained (including the removal of unauthorized debris) by the homeowners' association.

The purpose of Lot A is to: 1) Protect existing wetlands; 2) Provide private recreational facilities for the project residents (picnic tables, tot lot, tennis court, and turf areas). The same use restrictions defined in Condition #46 apply to all restricted Wetland Preservation Areas. **(CR/MM)** (PD/DPW)

The purpose of Lots B, C, D, E, & F is to provide landscape screening and berming utilizing native appearing, drought tolerant plant species, fencing, and provide for multi-purpose public trails (Lots E & F).

- a) Provide written evidence that compensatory habitat has been established through the purchase of mitigation credits at a County-qualified wetland mitigation bank. The amount of money required to purchase credits shall be equal to the amount necessary to replace wetland or riparian habitat acreage and resource

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values including compensation for temporal loss. The total amount of habitat to be replaced is .32 acres of wetland habitat, at a rate of 2:1. Evidence of payment, which describes the amount and type of habitat purchased at the bank site, must be provided to the County prior to issuance of Improvement Plans or Building Permits which would result in the degradation or loss of the habitat. The amount to be paid shall be the fee in effect at the time the Final Map is recorded or Use Permit is exercised (for guidance, if the Map were recorded today, the fee would be \$49,000 per acre for permanent and seasonal wetlands and/or \$70,000 per acre for vernal pools). (SR/CR/MM)

b) Construct wetland and/or riparian habitat in an off-site location acceptable to Placer County and any State or Federal resource agency with jurisdiction over the habitat. A wetland/riparian mitigation plan shall be reviewed and approved by Placer County and any affected State or Federal resource agency prior to initiation of construction of any compensatory habitat. (FR/SR/CR/MM)

48. Prior to any grading, in any phase, and during the raptor nesting season (March-July), a focused survey for raptor nests shall be conducted by a qualified raptor biologist in areas potentially affected by project implementation. A copy of the survey shall be provided by Placer County and the Department of Fish & Game. If construction is proposed to take place during the raptor breeding season, no construction activity shall take place within 500' of an active nest until the young have fledged (as determined by a qualified raptor biologist). Temporary construction fencing and signage as described herein, shall be installed at a minimum 500' radius around any trees containing protected nests. If an active raptor nest is identified onsite, appropriate mitigation measures should be developed and implemented in consultation with the Department of Fish & Game. Any necessary removal of mature trees containing stick nests may only occur during the non-breeding season (September 15 to February 15). The satisfaction of this condition shall be as determined by the DRC.

## FEES

49. **ADVISORY COMMENT:** This project is subject to the one-time payment of drainage improvement and flood control fees pursuant to the "Dry Creek Watershed Interim Drainage Improvement Ordinance" (Ref. Article 15.32, formerly Chapter 4, Subchapter 20, Placer County Code.) The current estimated development fee is \$180 per single family

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residence, payable to DPW prior to Building Permit issuance. The actual fee shall be that in effect at the time payment occurs. **(CR)** (DPW)

50. **ADVISORY COMMENT:** This project is subject to payment of annual drainage improvement and flood control fees pursuant to the "Dry Creek Watershed Interim Drainage Improvement Ordinance" (Ref. Article 15.32, formerly Chapter 4, Subchapter 20, Placer County Code). Prior to Building Permit issuance, the applicant shall cause the subject property to become a participant in the existing Dry Creek Watershed County Service Area for purposes of collecting these annual assessments. The current estimated annual fee is \$35, per single family residence. **(CR)** (DPW)
51. **ADVISORY COMMENT:** This project is subject to payment of traffic impact fees as prescribed by the *Placer County Road Network Traffic Limitation Zone and Traffic Fee Program*. The current estimated fee is \$3,261 per single family residence; however, the actual fee paid will be that in effect at the time payment occurs. This fee is payable prior to the issuance of any Building Permit on any lot or for any portion of the project. **(CR)** (DPW)
52. Fees shall be paid to Placer County for the development of park and recreation facilities pursuant to Article 16.08.100 or 16.20.228 (formerly Section 19.107 and Section 19.343) of the *Placer County Code*. This fee is to be paid prior to the recordation of the Final Map for use in Recreation Area #13, and is based on the project approval for 70 lots. The amount to be paid shall be twice the fee in effect at the time of Final Map recordation (for guidance, if the map were recorded today, the fee would be \$5,890 per residential lot. Said fees shall be used towards acquiring additional parklands and or providing facilities and equipment at the new county park site on Walerga Road.**(CR)** (PD)
53. Pursuant to Section 21089 (b) of the California Public Resources Code and Section 711.4 et. seq. of the Fish and Game Code, the approval of this permit/project shall not be considered final unless the specified fees are paid. The fees required are \$1,280 for projects with Negative Declarations. Without the appropriate fee, the Notice of Determination (which the County is required to file within 5 days of the project approval) is not operative, vested or final and shall not be accepted by the County Clerk. **(SR)** (PD)
54. This project is subject to the payment of the County's Capital Facilities Impact Fee pursuant to Article 15.30 of the Placer County Code. The applicable fee must be paid

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prior to issuance of a Building Permit, if required, or prior to issuance of a Business License or commencement of the use, if no Building Permit is required.

55. The applicant shall implement an offsite mitigation program, coordinated through the Placer County Air Pollution Control District, to offset the project's long-term ozone precursor emissions. In lieu of the applicant implementing their own offsite mitigation program the applicant could also contribute funding into the District's Offsite Air Quality Mitigation Fund in order to mitigate their project's long-term air quality impacts. The District would then use this money to reduce air pollutant emissions from existing sources throughout Placer County that are not currently required to reduce air pollutant emissions. This could include providing monetary incentives to owners of non-EPA certified woodstoves and replace them with the newer EPA certified Phase II wood burning devices or retrofitting existing high nitrogen oxide emitting engines with cleaner burning engines.

Based on this project's estimated emissions, the project would need to contribute \$11,187 (this is based on mitigating 100% of the nitrogen oxide emission potential from the new residences) into the Placer County Air Pollution Control District's air quality mitigation fund to reduce this project's long-term air quality impacts. The District will administer the offsite mitigation program in lieu of the applicant developing their own offsite mitigation program. Implementation of this measure prior to the filing of the Final Map would ensure that this project's long-term air quality impacts are adequately mitigated.

## **ENVIRONMENTAL HEALTH**

56. Construction noise emanating from any construction activities for which a Grading or Building Permit is required is prohibited on Sundays and Federal Holidays, and shall only occur:
- a) Monday through Friday, 6:00 am to 8:00 pm (during daylight savings)
  - b) Monday through Friday, 7:00 am to 8:00 pm (during standard time)
  - c) Saturdays, 8:00 am to 6:00 pm

In addition, temporary signs (4' x 4') shall be located throughout the project, as determined by the DRC, at key intersections depicting the above construction hour limitations. Said signs shall include a toll free public information phone number where surrounding residents can report violations and the developer/builder will respond and resolve noise violations. This condition shall be included on the Improvement Plans and shown in the development notebook.

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**ADVISORY COMMENT:** Essentially, quiet activities, which do not involve heavy equipment or machinery, may occur at other times. Work occurring within an enclosed building, such as a house under construction with the roof and siding completed, may occur at other times as well.

The Planning Director is authorized to waive the time frames based on special circumstances, such as adverse weather conditions. (EHS/PP)

57. The owner or occupant of each residence in this project shall subscribe to weekly mandatory refuse collection services from the refuse collection franchise holder. The Homeowners association shall be responsible for refuse collection service to all non-residential facilities within the project on the same basis. **(CR)** (EHS)

58. The applicant shall provide documentation acceptable to Environmental Health Services that the existing water well located in the water well easement recorded on November 15, 2000, that is located in the right of way required to be dedicated under condition 39 (c) has been abandoned and destroyed in accordance with County and State requirements. This destruction shall be shown on the improvement plans and included in the engineers cost estimate. The applicant shall also provide evidence that any property that may have utilized the water well for domestic purposes has been provided with an acceptable replacement domestic water supply prior to the well abandonment.

**ADVISORY COMMENT:** In the event Cal Am water requires approval of a separate annexation and service connections for the two adjacent impacted parcels (023-260-025 and 023-260-022), the Willow Park Subdivision will be dependant on this separate project to provide public water to these adjacent parcels.

59. The project shall conform to the Noise Element of the Placer County General Plan and the environmental document. Construct a noise barrier to the satisfaction of the DRC between the project and between the project and the Dry Creek School. This barrier shall be a solid 6-foot tall barrier on the east side of lots 10 and 11 and along the north side of lot 10. The barrier shall be shown on the improvement plans. Maintenance of the barrier shall be the responsibility of the homeowners association. This noise barrier, including cross section views of relationship to building pad elevations, shall be shown on the Improvement Plans. Noise barrier shall be a double-sided wood fence and not masonry sound walls. **(CR/MM)** (EHS)

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## AIR POLLUTION

60. Prior to any land development burning, alternatives to burning must be evaluated. APCD burn permits will not be issued until alternatives are reviewed and proof of such review is included with an APCD permit to burn application. All land development burn applications and subsequent burning is subject to the APCD rules and regulations, including denial of burn permit applications.
61. Only U. S. EPA Phase II certified wood burning devices shall be installed in each residence. The total emission potential from each residence shall not exceed 7.5 grams per hour from wood burning devices.
62. HVAC units shall be equipped with PremAir (or other manufacturer) catalyst system if available and economically feasible at the time building permits are issued. The PremAir catalyst can convert up to 70% of ground level ozone that passes over the condenser coils into oxygen. The PremAir system is considered feasible if the additional cost is less than 10 percent of the base HVAC system.
63. Landscape with native drought-resistant species (plants, trees and bushes) to reduce the demand for gas powered landscape maintenance equipment.  
Advisory Comment: The applicant is encouraged to plant California native tree species in excess of that already required.
64. Use of low VOC coatings per District Rule 218 Architectural Coatings.

## MISCELLANEOUS CONDITIONS

65. Approval of this Tentative Map is subject to the approval of the Board of Supervisors of a Rezoning to RS-B-20 PD 2.0 or a similar zone district which permits the project's proposed density and design. (SR) (PD)
66. Any entrance structure proposed by the applicant shall be reviewed and approved by the DRC, shown on the project Improvement Plans, and shall be located such that there is no interference with driver sight distance as determined by the DPW, ~~and shall not be located within the right-of-way and shall not restrict vehicular access (ie. gated entry's prohibited)~~. Access along Cook Riolo Road is limited to emergency vehicle access only.

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An electronic vehicular gate and pedestrian gates are allowed at the subdivision's entrance on Canopy Tree Street at PFE Road, and the manual EVA gate at Bulrush Street will be replaced with a manual wrought iron gate and pedestrian gate. Further details are provided in Conditions of Approval 114 through 122. (PD)

~~ADVISORY COMMENT: Any entrance monument or structure erected within the front setback on any lot, within certain zone districts, shall not exceed 3' in height (Ref. Article 17.54.030, formerly Section 10.030, Placer County Zoning Ordinance). (CR) (PD/DPW)~~

67. Prior to construction of any temporary parking lot(s) and/or the installation of temporary sales trailers on-site, the applicant shall provide security to the satisfaction of the DRC, based on an approved cost estimate, sufficient to guarantee removal of these facilities, and any related signage/temporary fencing, and revegetation of the disturbed areas within 30 days of discontinuing their intended use. Said security shall be payable to the Planning Department and released to the applicant upon completion and acceptance by the County of required work. **(CR)** (PD)
68. Any temporary parking lot(s) shall be constructed as an all-weather surface capable of supporting a 40,000 pound fire truck. The design of the parking lot(s) shall be subject to DRC review and approval prior to construction. **(CR)** (DPW)
69. Any temporary model home sales office shall be used solely for the first sale of homes within the project. **(CR)** (PD)
70. All temporary real estate sales uses approved by this action shall expire two (2) years from the issuance of the Building Permit for each temporary sales trailer or model home unit. Applicant may apply for an extension of this permit. **(CR)** (PD)
71. Prior to Improvement Plan approval, the applicant shall obtain a recordable encroachment permit from the DPW to allow the homeowners' association to maintain landscaping, fences and trails within the PFE Road right-of-way.
72. All structures with plumbing fixtures, including model homes/sales trailers shall be connected to public sewer and treated domestic surface water as approved by the Division of Environmental Health.

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## CONDITIONS, COVENANTS, & RESTRICTIONS

73. The project CC &R's shall provide for notification of future lot owners closest to the Citizens Utilities pump station and the Dry Creek School that these facilities may generate intermittent noises. Specifically that the school bus activities during bus staging generate noise during the 6:00 AM hour.
74. Prior to the filing of the Final Map, Conditions, Covenants, and Restrictions (CC&Rs) shall be prepared and submitted to and approved by the DPW, County Counsel, and other appropriate County Departments and shall contain provisions/notifications related to those issues raised elsewhere in these Conditions. **(CR)** (PD/DPW/EHS/APCD)
- a) The applicants shall create a Homeowners' association with certain specified duties/responsibilities. **(CR)** (DPW)
  - b) None of the provisions required by this condition of approval shall be altered without the prior written consent of Placer County. **(CR)** (PD/DPW/EHS/APCD)
  - c) A CSA to provide for street lighting maintenance at the project entrance only. In the event that the CSA is abolished by the Board of Supervisors, or the CSA is otherwise not able to function, the homeowners' association shall be responsible for the services provided by the CSA.
  - d) Maintenance of structural storm water quality enhancement facilities (BMPs) and private park by the homeowners' association.
  - e) Maintenance of on-site subdivision roadways.
  - f) Maintenance of all common area parcels by the homeowners association.
  - g) None of the provisions required by this condition of approval shall be altered without the prior written consent of Placer County.
  - h) Notification to future lot owners regarding the annual drainage fee assessments pursuant to the "Dry Creek Watershed Interim Drainage Improvement Ordinance", including any future revisions thereof.

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- i) Maintenance of emergency access gate(s) by the homeowners' association.
- j) Maintenance of landscaping and fences within PFE Road right-of-way.

**NOTIFICATION TO FUTURE BUYERS**

- 75. Prohibition against night lighting within all common area lots (except for streetlights).
- 76. Notification to all future owners regarding the provisions contained in Conditions #31 & 33, and that each owner will be taxed for their fair share of the financial infrastructure.
- 77. Notification to all future owners that any outdoor lighting shall be kept to a minimum and shielded such that direct rays from the lamp are directed downward and do not cross property lines.
- 78. Notification to all future owners that an annual monitoring report is required for a period of five (5) years for the replacement of oak trees, and for 2 years for the installation of landscaping within the project area. Any corrective action will be the responsibility of the homeowners' association/golf course operator, when warranted, for inspection and corrective work.
- 79. Notification to the future owners of all lots that no owner shall construct any structures including pools, and spas, nor place any fill materials, lawn clippings, oil, chemicals, or trash of any kind within any common open space areas, nor shall any grading, vegetation removal or alteration be permitted within these areas nor fencing or domestic landscaping (unless native/wetland species approved by the DRC). Trimming or other maintenance of natural vegetation and fire prevention purposes, and only with the written consent of the DRC. A provision for the enforcement of this restriction by the homeowners' association shall be provided.
- 80. Notification to all future lot owners of a listing of drought tolerant plant materials and information regarding drip irrigation and rain shut-off systems designed to conserve water.

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81. Notification to future owners of the requirement for 2 street shade trees to be planted per residential street lot frontage (ie. four trees per corner lot)
82. Notification to the future owners that no structure, including fencing over 3' in height, may be installed in front setback areas as defined herein, except that fencing within side street side yard areas, as defined by Condition No. 105, may be placed as close as 21-feet from the back-of-curb within the side street side yard area. No side street side yard fencing shall exceed six feet in height, and no side street side yard fencing shall be placed within any public utility easement area. (Amended by the Planning Commission at its February 9, 2006 meeting).
83. Notification to future homeowners of the potential effects of agricultural operations that exist on adjoining properties and properties in the vicinity. This notice will include language to the effect that farm operators have a "right to farm" their lands despite potential nuisance to neighboring residences including noise, odors and/or the use of hazardous or toxic materials.
84. Notification to future owners of lots adjoining lots C, and D, that no solid fencing shall be allowed along their rear lot lines facing PFE and Cook Riolo Roads.
85. Notification to future owners and builders that permanent protective fencing located alongside Restricted Wetland Preservation Areas shall not be removed or altered without the express written permission of the homeowners' association and the DRC. **(CR/MM)** (PD)
86. Notification to all future owners that all outdoor lighting shall be shielded such that direct rays from the lamp are directed downward and do not cross property lines. Motion sensor lighting shall be encouraged to minimize night sky light pollution. **(CR/MM)** (PD)
87. Notification to all lot owners of the requirements to submit all building plans and site/grading plans to the homeowners' association Architectural Review Committee prior to submittal to Placer County for Building Permits. Building plans shall comply with architectural guidelines, building and garage setbacks, height restrictions, building coverage, and other conditions of approval. Efforts should be made to locate residences away from sensitive areas such as trees, rock outcrops, etc. **(CR/MM)** (PD)

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88. Notification to the future owners of affected lots that are located adjacent to common area lots, regarding the provision of an access easement to the homeowners' association for maintaining fencing around the perimeter of such lots. A minimum 24-hour notification to affected homeowners shall be provided prior to any work by the homeowners' association. **(CR)** (PD)

89. Notification to all future lot owners that minimum setbacks for all structures, including any fencing over three-feet in height, shall be as follows, unless a greater setback is indicated within the Development Notebook that is described elsewhere in these conditions of approval: A) Front - 30'; B) Side - 10'; C) Rear - 20'; side street side yard - 21 feet from back-of-curb. Garages shall have a minimum 20' to the back of sidewalk or street property line, whichever is greater. Setbacks for pools and related equipment areas are defined in Placer County Code, Article 17.54.140, formerly Zoning Ordinance Section 10.082 B (5). **(CR)** (PD)

In addition, the garage design standards contained in Condition #106 shall also be included in this notification.

(Amended by the Planning Commission at its February 9, 2006 meeting).

90. Notification to all future lot owners of a listing of drought tolerant plant materials and information regarding drip irrigation systems designed to conserve water. **(CR)** (PD)

91. Notification to the future owners that no structures, including fencing over 3' in height, may be installed in front setback areas, including any property frontages along roadways. For side street side yard areas, no fencing over three-feet in height shall be installed closer than 21 feet to the associated back-of-curb. **(CR)** (PD) (Amended by the Planning Commission at its February 9, 2006 meeting).

92. Each new lot owner shall be provided with a copy of the Development Notebook page(s) applicable to the subject lot, including plot plans and all use restrictions. **(CR)** (PD)

93. The applicant shall obtain and distribute to all new and existing residences/occupants within the project boundary informational materials on the following topics: Open burning, woodburning, agricultural burning, air pollution, and transportation control measures (such as ridesharing, mass transit availability/schedules, computerized ride-matching service, and other measures designed to reduce both the use of single-

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occupancy vehicles and vehicle miles traveled). Contact the APCD for updated information on these materials. **(MM)** (APCD)

94. Notification to all future owners that only Phase II EPA-certified woodburning devices can be installed in structures. **(MM)** (APCD)
95. The following items will be installed in each home: An electrical outlet at the front and back of a home for electrical yard equipment, and a gas outlet in the backyard for gas burning barbecues. **(MM)** (APCD)
96. If natural gas is made available to the project, all fireplaces installed in the project area shall be outfitted for natural gas. **(MM)** (APCD)
97. Electrical outlets shall be installed on the exterior walls of all buildings/residences to promote the use of electric landscape maintenance equipment. (APCD)
98. The developer shall install electric vehicle raceways (conduit only) in all garages. (APCD)
99. No storage of boats, trailers, recreational vehicles, campers, or inoperable vehicles within the project except to the side or rear of a residence, and screened from street view. **(CR)** (PD)
100. The applicant shall incorporate into CC&Rs limitations on the emission potential from woodburning fireplaces. The maximum emission potential from each residence shall not exceed 7.5 grams of particulate matter per hour. No open fireplaces without EPA certified devices shall be permitted. **(APCD)**

#### **DEVELOPMENT STANDARDS**

101. The Development Standards for this project are as follows:
102. The minimum lot width shall be as shown on the tentative map. **(CR)** (PD)
103. Pursuant to the Zoning Ordinance, setbacks apply to all structures and accessory structures. Setbacks for swimming pools/spas/pool equipment, etc. shall conform to Placer County Code, Article 17.54.140, formerly Zoning Ordinance Section 10.082 B (5). **(CR)** (PD)

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104. In no case shall the face of a garage be closer than 20' to the back of sidewalk or street property line, whichever is more restrictive. **(CR)** <sup>(PD)</sup>
105. The structural setbacks for this Planned Development are as follows:
- A) Front (street) - 30' (minimum 20' from back of sidewalk to garage)
  - B) Sides - 10'
  - C) Rear - 20'
  - D) Side Street Side Yard – 21 feet from back-of-curb
  - E) Accessory structures/pools/spas per Zoning Ordinance Section 10.082 B (5).
- (CR)** <sup>(PD)</sup>  
(Amended by the Planning Commission at its February 9, 2006 meeting).
106. The following garage design standards shall apply to all houses constructed within this project:
- 1) The garage doors shall face the side of the lot, or;
  - 2) The garage portion shall be recessed a minimum of 15 feet behind the front of the house ("front" meaning the forward-most portion of the house covered by roof), as measured at the garage door, with the width of the garage not to exceed 40% of the total width of the structure, or;
  - 3) Any front-facing garage portion of a house:
    - a. shall be recessed at least 3 feet behind the front of the house (as "front" is defined above); and
    - b. shall have garage doors with raised panels and windows, or comparable design features, stained or painted to complement the color and style of the house; and
    - c. shall not exceed 40% of the total width of the structure (which width may include any side-loaded garages); and
    - d. shall have a design that includes one or more of the following architectural features appropriate to the specific architectural style of the home:
      - i) a trellis feature, in front of and spanning the width of the garage(s), at least 3 feet wide, which could serve to support plants, or;
      - ii) an off-set of at least 2 feet difference between the faces of the individual single-car width garage doors (not acceptable with a double car width garage door), or;

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iii) a roof feature which creates the look of an individual gable roof (or other design appropriate to the style of the home) over one of the two garage doors, and is architecturally distinct from the roof over the second garage door, or;

iv) any architectural wall which generally connects the garage and the front of the house to enclose a courtyard and which extends at least 5 feet closer to the street than the face of the garage (any such wall, if within the front setback area shall not exceed 3' in height), or;

v) separate single-car width garage doors.

For any house where the design includes a side facing garage, the side of the garage facing the street shall be counted as part of the "front" of the home, and the measurement of width shall be the exterior width of that portion of the structure, referenced herein.

107. The maximum building coverage per residential lot in this Planned Development is per Zoning Ordinance Article 17.54.100, formerly Section 10.064 A. 2. C, unless otherwise specified in Condition #1. **(CR)** (PD)

108. Prior to the issuance of any building permits (including model homes) for each phase, a Development Notebook shall be submitted to the Planning Department and include plot plans for each lot in the project, depicting all dimensions, easements, setbacks, height limits and other restrictions which might affect the construction of structures on said lot. No Building Permits may be issued for the project until this Notebook is provided to and accepted by the DRC for format and content requirements for each phase. Upon Planning Departments acceptance of the Development Notebook, the applicant shall provide four copies of the final notebook for distribution to the Planning Department, Department of Public Works, Department of Environmental Health, and Air Pollution Control Department for their use in issuing building permits. **(CR)** (PD)

109. The maximum building height for this Planned Development is 30'. **(CR)** (PD)

#### **MITIGATION MONITORING**

110. A Mitigation Monitoring Implementation Program (MMIP) for the replacement of native oaks and other trees, prepared by an ISA certified arborist, Registered Forester, or Landscape Architect, shall be submitted to the Planning Department, in conjunction with the project's Improvement Plans for review and approval by the DRC. Said plan shall provide for inch for inch replacement for all onsite (178" dbh) and offsite (to be determined)

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impacted oaks and other native trees resulting from project improvements. Replacement trees shall be planted by the project developer within Common Area Lots and any residential lots determined appropriate by the DRC. The Plan shall include a site plan that indicates the trees' location, installation and irrigation requirements and other standards to ensure the successful planting and continued growth of these trees.

Installation of all trees and irrigation systems must be completed prior to the County's acceptance of the subdivision's improvements. Access rights for monitoring and maintenance, if necessary, shall be provided to the homeowners' association.

An annual monitoring report for a minimum period of 5 years from the date of installation, prepared by the above-cited professional, shall be submitted to the DRC for review and approval. Any corrective action shall be the responsibility of the homeowners' association.

Prior to the approval of the Improvement Plans, a Letter of Credit or cash deposit in the amount of 125% of the accepted proposal shall be deposited with the Placer County Planning Department to assure on-going performance of the monitoring program. Evidence of this deposit shall be provided to the satisfaction of the DRC. An amount equal to the cost for administrative and program review by the County shall be paid to Placer County and deducted from this deposit before the balance is returned to the applicant.

Violation of any components of the approved MMIP may result in enforcement activities per Placer County Environmental Review Ordinance, Article 18.28.080 (formerly Section 31.870). An agreement between the applicant and County shall be prepared which meets DRC approval that allows the County use of this deposit to assure performance of the MMIP in the event the homeowners' association reneges. (SR/CR/MMIP) (PD)

## **EXERCISE OF PERMIT**

111. The applicant shall prepare and submit to the Department of Public Works (DPW), a Final Subdivision Map which is in substantial conformance to the approved Tentative Map in accordance with Chapter 16 (formerly Chapter 19) of the Placer County Code; pay all current map check and filing fees. (SR/CR) (DPW)

112. The applicant shall have 36 months to exercise this Vesting Tentative Map and Conditional Use Permit. Unless exercised, this approval shall expire 36 months (January 22, 2005) after the final effective date of the Board of Supervisor's action on the REA-896.

On February 10, 2005, the Planning Commission approved a two-year extension of time extending this approval thru January 22, 2007.

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113. All portions of fencing, including side street side yard fencing, shall be outside the 12.5-foot or 17.5 – foot Multi-Purpose Easement (P.U.E), where applicable, as shown on “Willow Park Planned Development; Book AA, Page 41”. (Amended by the Planning Commission at its February 9, 2006 meeting).
114. The applicant shall obtain a Building Permit for the vehicular gates, pilasters, lighting and pedestrian gates from the Placer County Building Services Division.
115. Construct private gated entrance features on Canopy Tree Street and Bulrush Street that comply with the County’s Private Gated Entrance detail to the satisfaction of the ESD and servicing fire district(s) and as shown on the approved Entrance Gate exhibits (C-1 & C-2) dated October 9, 2015. The entrances shall provide for a vehicle turnaround in front of the gate such that a vehicle can turn around and enter into the County right-of-way in a forward direction. The Sight Distance triangle from Canopy Tree Road and Bulrush Street shall be maintained free of obstructions per County Standard Plate R-17 (including vegetation, fencing, etc.).
116. Prior to Building Permit issuance for the gated entrance features, the applicant shall process an abandonment of the Irrevocable Offer of Dedication to the public of an easement for road purposes over Lots E, F, & G which includes all of the private subdivision roadways within the Willow Park subdivision, as shown on the Final Map of Willow Park, Book AA of Maps at Page 41. Contact John Weber, DPW Right of Way Agent, (530) 745-7500, to initiate the Abandonment Process.
117. Prior to Building Permit issuance, an Encroachment Permit shall be obtained from the DPW for the work related to the new private gated entrance feature on Canopy Tree Street at PFE Road and the replacement of the existing emergency access only gate on Bulrush Street at Cook Riolo Road.
118. The face of all gates shall be a minimum of 40’ from the edge of pavement of the street and shall open to allow a vehicle to stop without obstructing traffic on the public road (PFE Road and Cook Riolo Road). Gate entrances shall be at least two feet wider than the width of the traffic lane(s) serving the gate.
119. Prior to Building Permit issuance, provide the ESD with a letter from the appropriate fire protection district(s) describing conditions under which service will be provided to this project.
120. All Pedestrian Gates shall remain unlocked from dawn to dusk, seven days a week, 365 days per year.

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121. The gated entry and EVA entrance are subject to review and approval by the Development Review Committee (DRC). Such a review shall be conducted prior to the issuance of the Building Permits and shall include, but not be limited to: compatibility of architectural design and exterior colors, vehicular circulation, lighting and landscaping.

122. The following is a list of conditions from the serving Fire District:

- a) Gate openings to be 2 feet wider than the roadway served.
- b) Emergency vehicle access shall be provided by both a "Knox" over-ride switch or other device approved by the authority district.
- c) An approved hammerhead, turn-around bulb or other means of turn-around shall be provided on the entry side of the gate. Turning radius shall allow for bumper overhang and ladder truck extension beyond front wheels
- d) Gates shall automatically open from the interior without use of a special code or device. (Magnetic strip or pressure pad assemblies are acceptable).
- e) All electric gates shall fail in the open position, i.e. loss of power, battery failure.
- f) Vertical clearances shall be no less than 15'.
- g) Gate shall be located no closer than 30' from the intersecting roadway ultimate edge of pavement.
- h) Provide a separate personnel gate or opening sized and surfaced to allow for pedestrian and wheelchair access.
- i) Gate components shall be maintained in an operative condition at all times and replaced or repaired when defective.
- j) All future traffic calming projects shall have fire department approval.

123. The applicant shall, upon written request of the County, defend, indemnify, and hold harmless the County of Placer (County), the County Board of Supervisors, and its officers, agents, and employees, from any and all actions, lawsuits, claims, damages, or costs, including attorneys' fees awarded by a court, arising out of or relating to the processing and/or approval by the County of Placer of that certain development project known as Willow Creek Conditional Use Permit Modification PLN15-00454 (the Project). The applicant shall, upon written request of the County, pay or, at the County's option, reimburse the County for all costs for preparation of an administrative record required for any such action, including the costs of transcription, County staff time, and duplication. The County shall retain the right to elect to appear in and defend any such action on its own behalf regardless of any tender under this provision. This indemnification obligation is intended to include, but not be limited to, actions brought by third parties to invalidate any determination made by the County under the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) for the Project or any decisions made by the County relating

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to the approval of the Project. Upon request of the County, the applicant shall execute an agreement in a form approved by County Counsel incorporating the provisions of this condition. (County Counsel)

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**MAY, 2006**  
**APRIL, 2016**

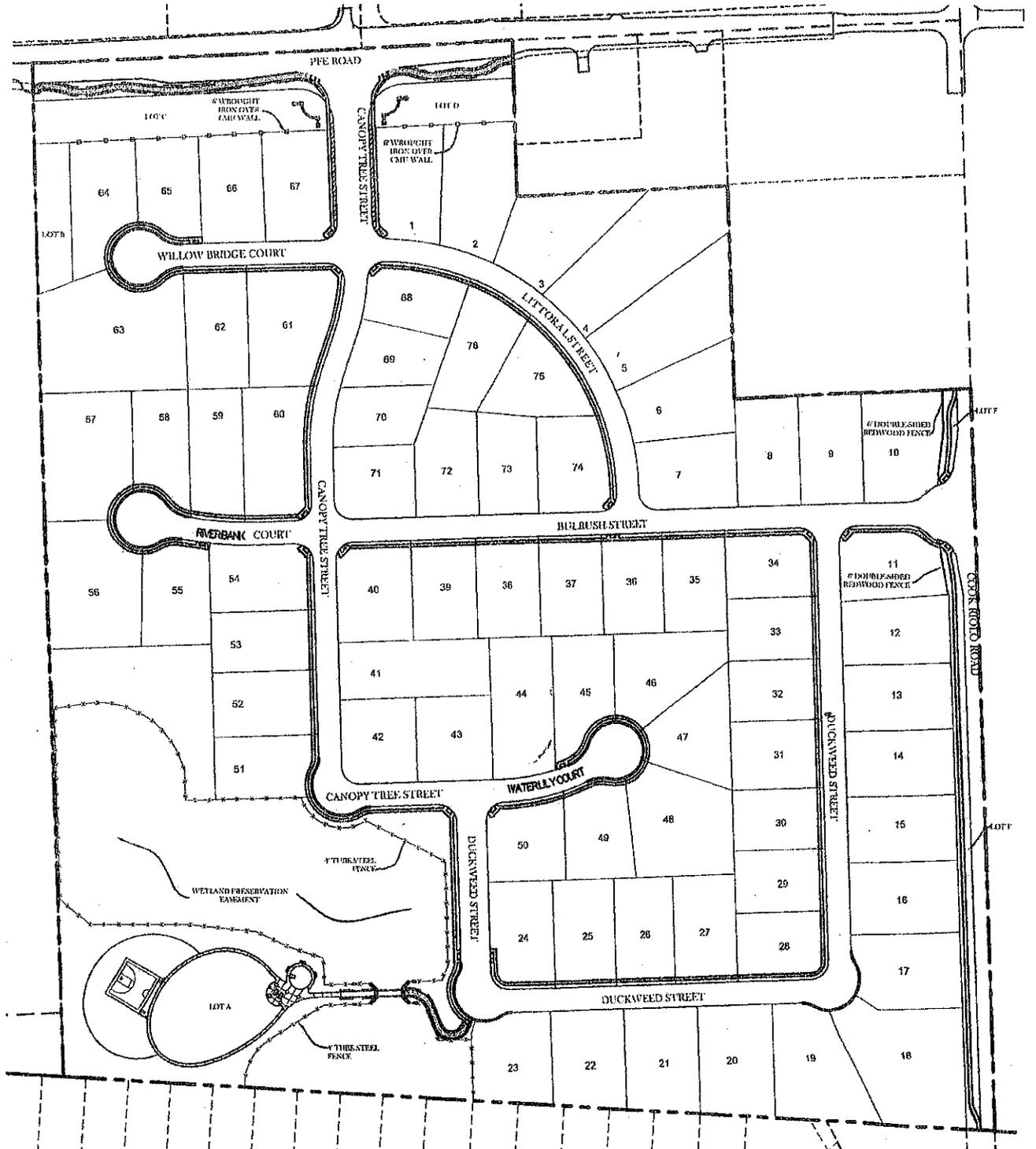
**PAGE 39 OF 39**

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# KEY MAP

## WILLOW PARK

### PLACER COUNTY, CALIFORNIA



SEPTEMBER 28, 2005

**TSD Engineering, Inc.**  
Total Site Design

509 Bridge Street  
Folsom, CA 95630 48  
TEL: 916-608-0707 FAX: 916-608-0701

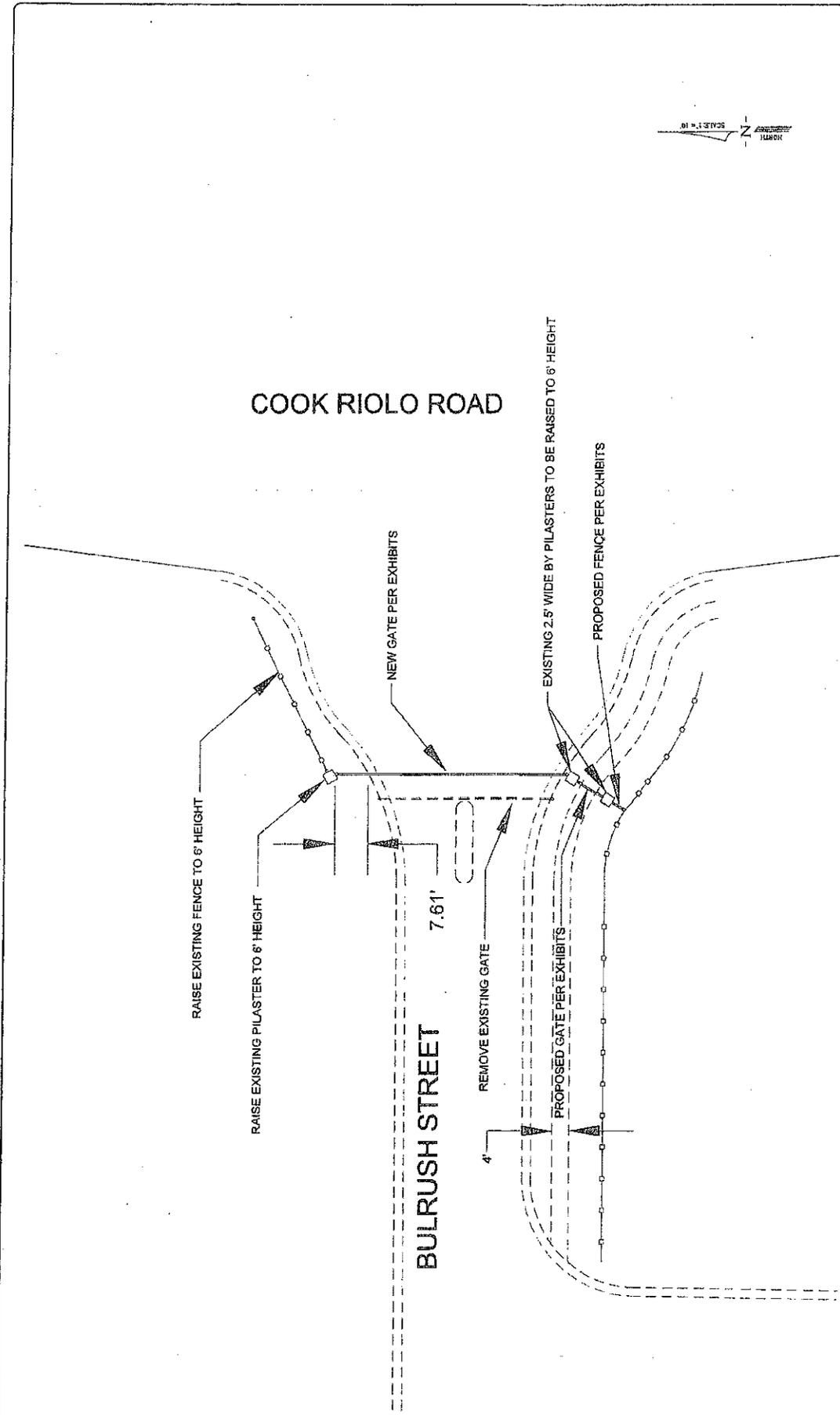
ATTACHMENT B



NOT TO SCALE

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SHEET NO.  
C2 OF 2  
JOB NO.

MILL CANYON SUBDIVISION  
PROPOSED EXHIBIT GATE  
BULRUSH STREET  
COUNTY OF PLACER, CALIFORNIA  
SITE PLAN

**DA + SGI** A Joint Venture  
Engineers Planners Surveyors  
Robert A. Kinsler, Inc. - Surveying Group, Inc.  
10000 Rockledge Drive, Suite 100  
Sacramento, CA 95827  
(916) 750-0022 (Fax) (916) 750-0023  
www.dasgi.com



DESIGNED D. DORR  
DRAWN D. DORR  
CHECKED D. DORR  
DATE 10/20/16  
SCALE 1"=50'

NOTE

No.	Description	COUNTY APPROVAL	
		DATE	BY

# INMAN LAW GROUP, LLP

COMMON INTEREST DEVELOPMENT LAW

March 9, 2016

**County of Placer**  
**Planning Services Division**  
**Attn. Lisa Carnahan**  
3091 County Center Drive  
Auburn, CA 95603

**Re: Willow Park CUP 2747**

Dear Ms. Carnahan:

We represent the Willow Park Owners' Association (the "Association"), which sometimes referred to as the Willow Creek Owners Association. The Association is the community association for the common interest development created for Tract 926, Final Map of Willow Park, Filed for Record July 12, 2005, in Book AA of Maps, Page 41, Placer County Records (the "Subdivision").

Acting through its board of directors, the Association has filed an application with Placer County seeking a modification of the conditional use permit applicable to the Subdivision. The County has asked for confirmation that the Association has the authority pursuant to the Association's governing documents to prosecute the application for the modification of the conditional use permit.

We have reviewed the Association's governing documents and confirm the Association has the legal authority to submit and prosecute the application for a modification of the conditional use permit which is currently subject to review by the County.

Section 3.07 of the Association's declaration of CC&Rs gives the Association's board of directors authority over the common area, which specifically includes the roadways within the Subdivision. A copy of this provision is attached for your reference.

Section 7.01(o) of the CC&Rs gives the Association's board the authority to own, hold, improve, build upon and operate real and personal property, such as the common area roadways within the Subdivision. A copy of this provision is attached for your reference.

In addition to the provisions referenced above, the Association has obtained all necessary membership approval required by the Association's governing documents related to the application for a modification to the conditional use permit.

If you have any question regarding any aspect of this letter, please do not hesitate to contact us.

Very truly yours,

**INMAN LAW GROUP, LLP**



Bruce R. Inman

cc: Robert Sandman, Esq. Deputy County Counsel  
Willow Park Owners' Association

ATTACHMENT G<sub>1</sub>

thereby shall be repaired by the Board at the expense of the Association. Except in case of an emergency, 24 hour advance notice shall be given to the Owner or occupant.

e) Declarant's Reservation of Easements. Declarant hereby reserves easements over the Common Area for common driveway purposes, for drainage and encroachment purposes, and for ingress and egress from the Common Area for the purpose of completing Improvements thereon or for the performance of necessary repair work. Said easement shall automatically terminate four years after the recordation of this Declaration, or two years after the recordation of any annexation for a subsequent phase of the Project, whichever occurs later.

3.06. Provisions Restricting Delegation of Use. Any Owner may delegate their rights of use and enjoyment of the Project, including any recreational facilities, to the members of their family, their guests, tenants, employees, and invitees, and to such other persons as may be permitted by the Bylaws and the Association Rules, subject however, to this Declaration. However, if an Owner has sold his/her Lot to a contract purchaser or has leased or rented it, the Owner, members of the Owner's family, guests, tenants, employees, and invitees shall not be entitled to use and enjoy any of such rights in the Project, including the recreational facilities, while the Owner's Lot is sold to the contract purchaser or rented to tenants. Instead, the contract purchaser, or tenants, while occupying such Lot, shall be entitled to use and enjoy such rights, including the recreational facilities, and can delegate the rights of use and enjoyment in the same manner as if such contract purchaser or tenants were an Owner during the period of their occupancy. Each Owner shall notify the Secretary of the Association of the names of any contract purchasers of such Owner's Lot or tenants of such Owner's Lot. Each Owner, contract purchaser, or tenant also shall notify the Secretary of the Association of the names of all persons to whom such Owner, contract purchaser, or tenant has delegated any rights of use and enjoyment and the relationship that each such person bears to the Owner, contract purchaser, or tenant. Any delegated rights of use and enjoyment are subject to suspension to the same extent as are the rights of Owners. No such delegation shall relieve an Owner from liability to the Association or to other Owners for payment of assessments or performance of the covenants, conditions and restrictions contained in this Declaration. Any lease, rental agreement or contract of sale entered into between an Owner and a tenant or contract purchaser of a Lot shall require compliance by the tenant or contract purchaser with all of the covenants, conditions and restrictions contained in this Declaration, which provision shall be for the express benefit of the Association and each Owner. The Association and each Owner shall have a right to action directly against any tenant or contract purchaser of an Owner, as well as against the Owner, for nonperformance of any of the provisions of this Declaration to the same extent that such right of action exists against such Owner.

3.07 Authority Over Common Area. The Board or Declarant (as long as Declarant owns 25% or more of the Lots in the Development) shall have the power and the right in the name of the Association and all of the Owners as their attorney-in-fact, to grant, convey or otherwise transfer to any Owner or any other Person fee title, easements, leasehold estates, exclusive use easements or rights, licenses, lot-line adjustments, rights-of-way, and/or dedications in, on, over or under the Common Area or other property, in order to: (i) construct, erect, operate, maintain or replace lines, cables, wires, conduits, or other devices for electricity, cable television, internet services, fiber optics, telecommunication equipment, power, telephone and other purposes, public sewers, storm water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes and

any similar public or quasi-public Improvements or facilities; (ii) accommodate any encroachment that in the sole discretion of the Board or Declarant does not unreasonably interfere with the use and enjoyment of the Common Area, or (iii) accomplish any other purpose that in the sole discretion of the Board or Declarant is in the interest of the Association and its Members and does not unreasonably interfere with the use and enjoyment of the Common Area. Each Owner, in accepting a deed to a Lot expressly consents to such action and authorizes and appoints the Association and Declarant (as long as Declarant owns 25% or more of the Lots in the Development) as attorney-in-fact of such Owner to execute and deliver all documents and interests to accomplish the action, including, but not limited to, grant deeds, easements, subdivision maps, and lot-line adjustments. Notwithstanding anything to the contrary contained herein, in no event shall the Board or Declarant take any action authorized hereunder that would permanently and unreasonably interfere with the use, occupancy and enjoyment by any Owner of his or her Lot without the prior written consent of that Owner. Furthermore, the conveyance of fee title to any portion of the Common Area authorized in this Section 3.07 (other than conveyances made as a part of the lot-line adjustments) shall require the consent of a majority of the total voting power of the Association other than Declarant.

3.08 Construction Activity. Each Owner acknowledges that: (i) the construction of the Project may occur over an extended period of time; (ii) the quiet use and enjoyment of the Owner's Lot may be disturbed as a result of the noise, dust, vibrations and other effects of construction activities, and (iii) the disturbance may continue until the completion of the construction of the Project.

## SECTION 7: POWERS, DUTIES AND LIMITATIONS OF THE ASSOCIATION

7.01. Powers and Duties of Association. In addition to the powers and duties enumerated in its Articles and Bylaws or elsewhere provided for herein, and without limiting the generality thereof, the Association and the Board shall have the following powers and duties:

a) Delegation of Powers. To delegate all powers to committees, officers or employees of the Association as expressly authorized by the Project Documents.

b) Management Agent. To employ a management agent and to contract with independent contractors to perform all or any part of the duties and responsibilities of the Association, provided that any contract with a firm or person appointed as a managing agent or any other contract providing for services of the developer, sponsor or builder shall not exceed a 1 year term renewable by the parties for successive one year periods and shall provide for the right of the Association to terminate the same at the first annual meeting of the Members of the Association, to terminate the same for cause on 30 days written notice, and either party may terminate without cause and without payment of a termination fee on 60 days written notice.

c) Maintenance. To maintain the Project as required by the provisions of this Declaration.

d) Supervision. To supervise all officers, agents and employees of the Association and see that their duties are properly performed.

e) Assessments, Liens, and Fines. To levy and collect assessments and as provided in the Project Documents, impose fines or take disciplinary action against an Owner for failure to pay assessments or for violation of any provision of the Project Documents. Penalties may include, but are not limited to: fines, temporary suspension of voting rights or rights to use of the facilities on the Common Area, or other appropriate discipline for failure to comply with the governing instruments, provided that the accused Member is given notice and the opportunity to be heard by the Board with respect to the alleged violations before a decision to impose discipline is reached. Such notice and hearing procedures shall satisfy the minimum requirements of Corporations Code Section 7341, which are set forth in Section 12 of the Bylaws.

f) Enforcement of Project Documents. To enforce applicable provisions of the Project Documents for the ownership, management and control of the Project.

g) Adoption of Rules. To adopt, amend and repeal reasonable rules consistent with this Declaration relating to the use of the Common Area and all facilities thereon, and the conduct of Owners and their tenants and guests with respect to the Project and other Owners. A copy of the Association Rules as adopted, amended or repealed shall be mailed or otherwise delivered to each Owner and a copy shall be posted in a conspicuous place within the Common Area.

h) Records. Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any

special meeting when such statement is requested in writing by 5% or more of the total voting power of the Association; keep adequate and correct books and records of account, minutes of proceedings of its Members, Board and committees, and a record of its Members giving their names and addresses and classes of membership.

i) Water and Other Utilities. To acquire, provide and pay for water, sewer, garbage disposal, refuse and rubbish collection, electrical, telephone, gas and other utility services as necessary for the Common Area.

j) Granting of Easements. To grant easements where necessary for utilities and sewer facilities over the Common Area to serve the Common Area and the Lots.

k) Exercise of Easements. To exercise all easement rights as granted to it in this Declaration for the purpose of performing the maintenance authorized herein or for any other purpose reasonably related to the performance by the Association or the Board of their responsibilities.

l) Contracts. To contract for goods and/or services for the Common Area facilities and interests or for the Association, subject to limitations elsewhere set forth in the Project Documents.

m) Limit Number of Guests. To limit the number of an Owner's guests who may use any facilities on the Common Area.

n) Title to Common Area. To accept title to the Common Area conveyed to it by Declarant.

o) Acquisition of Property. To acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association.

p) Budgets. To prepare budgets and financial statements for the Association as prescribed in this Declaration.

q) Legal and Accounting. To obtain and pay the cost of legal, accounting and other professional services necessary or proper for the maintenance and operation of the Project and the enforcement of the Project Documents.

r) Emergency Repair. To enter upon any privately owned Lot as necessary in connection with construction, maintenance or emergency repair for the benefit of the Common Area or the Owners in common.

s) Election of the Board of Directors. To elect the Members of the Board.

t) Filling Vacancies. To fill vacancies on the Board created by the removal of a Board Member.



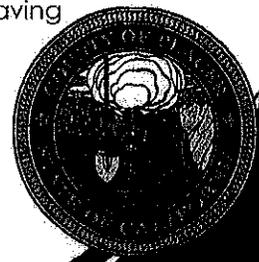
**REGULAR MEETING Minutes**

Wednesday, March 9, 2016

Creekview Ranch School. (Library building) 8779 Cook Riolo Road, Roseville

1. **Call to Order & Pledge of Allegiance:** The meeting was called to order by Chairperson John Hottle at 7:00 and led the pledge.
2. **Welcome & Introduction of Members:** Chair John Hottle welcomed the community and each member introduced themselves as follows: Vice-Chair Walt Wylie, Alicia Butler, Darryl Osborne, Carolyn Riolo & Diane Howe (Secretary)
3. **Approval of March 9, 2016 Agenda & February 10, 2016 Minutes:** Darryl Osborne moved to approve the agenda as presented, Caroline seconded. Motion carried 4-0  
Darryl Osborne moved to approve the minutes of February 10 as presented. Carolyn Riolo seconded. Motion carried 4-0
4. **Public Comment:** Let us hear from you! Do you wish to share something that's NOT already on this agenda? We welcome your input at this time and kindly ask that you keep your comments to 5 minutes or less (or as determined by the chairman).  
Community member Beth Cook informed the MAC that there is graffiti (tagging) happening under the golf cart bridge (Morgan Creek) making it uncomfortable to walk on the trail beside the creek. Sheriff Bryant suggested people should call the sheriff department with such issues. She also asked about speeds and traffic control on PFE Road. The MAC informed her that the transportation element revision had removed the barricade from the PFE plan. Supervisor Duran stated we will be getting Transportation Director, Ken Grehm, returning to a meeting soon to discuss speed humps, and speed control methods. Community member Amy Flowers ask about burning and the problem she faces with Air Pollution Control even though she has a burn permit. Supervisor Duran ask that she forward on her letter to him and he would look into it.
5. **Reports:**
  - A. **Local Government:** Placer County Supervisor Jack Duran: Supervisor Duran informed the MAC that the Supervisors had extended the use permit for the homeless shelter and were working on other places for the homeless.
  - B. **Public Safety:** CAL FIRE: Capt. Steve Taylor reported the fire personnel were doing home safety inspections and the disk line program. He also invited everyone to the volunteer pancake breakfast on March 19, 7-12 at the station., CHP: Officer Steve Pellegrino reported there is little in our area but there was an accident at Baseline and Dryer Lane. Community member Chuck Barsdale spoke to the stop sign at Vineyard/Eva Lane which is ignored on a regular basis. , Placer County Sheriff's Office: Officer Bryant reported that there have been burglaries in the area and to lock your cars leaving nothing in them as well as your doors.
- A. **Information Item: None**

The MAC is composed of appointed community members whose purpose is to advise the Board of Supervisors about activities and problems of the area represented. Residents are encouraged to attend and talk about issues important to them. More info at [www.placer.ca.gov/bos/mac](http://www.placer.ca.gov/bos/mac). Placer County is committed to ensuring that persons with disabilities are provided the resources to participate fully in public meeting. If you require disability-related modifications or accommodations, including auxiliary aid or services, to attend or participate in this meeting, please contact the Board of Supervisor's Office.



7. **Action Item:**

**A. Proposed Gated Entrance for the Willow Park Subdivision**

The Willow Park Subdivision Home Owners Association is requesting a Conditional Use Permit Modification to allow for an electronic vehicular gate and two pedestrian gates at PFE Road and Canopy Tree Street. The request also includes the replacement of the current manual emergency access side gate on Bulrush Street and Cook Riolo Road with a decorative, wrought iron manual emergency access vehicular gate and one pedestrian gate. Presented by Lisa Carnahan, Planning Services Division, Chairperson Hottle opened this item with an explanation that the item will be addressed with a brief presentation, then community comments of 3 minutes each as time allowed (say ditto if possible), and then MAC member questions and comments. He also stated that the MAC is an advisory board and will not judge on basis of law on the CC&R's. The legality of the request based on the CC&R's is not a County or MAC issue but a legal issue. Lisa Carnahan presented the request as stated above informing the Board that the vote had been 33 to 24 for a gate. Mr. Hottle opened the community comment portion alternating back and forth. Comments were made for stating safety issues both at the park (private) and speeds in the community and crime. Comments were also made against based on cost, false security, purchased because of no gates, and speed is their own community members. Mr. Hottle closed community comment and opened MAC comments. Ms. Riolo asked about the emergency access (fire, EMT) issues and was informed that the requirements of the County would include a lock box as well as strobe to open the gate. Mr. Wyllie spoke to the tension and disruptive nature that this topic had created in the neighborhood and expressed the need to work together to come to an acceptable conclusion to bring the neighborhood back together. Supervisor Duran stated that the issue would move forward to the Planning Commission either way. Diane spoke to the sadness of the tension between neighbors and suggested a possibility of replacing the gate on Cook Riolo/Bushnell and fencing the park with a punch-key coded gate for entrance. Walt Wyllie moved to deny the proposed gate project bases on the disruptiveness and cost of the project and the desire of the community plan to have minimal gated communities. Carolyn Riolo seconded based on the cost and the potential of placing lends on homes. Motion carried 3-2 (For: Darryl, Carolyn, Walt, Nay: Alicia, John)

8. **Adjournment** to next regular meeting on April 13, 2016. The meeting was adjourned at 8:30 pm



**PLACER COUNTY FIRE DEPARTMENT** in cooperation with:  
**DEPARTMENT OF FORESTRY AND FIRE PROTECTION**  
**Placer County Office of Fire Protection Planning**  
3091 County Center Drive, Suite 160 Auburn, CA 95603  
(530) 745-3574 Fax (530) 745-3058



March 10, 2015

Re: Placer County Fire Department Conditions of Approval for the proposed Willow Park Gated Entrance

The following is a list of conditions for the project listed above:

1. Gate openings to be 2' wider than the roadway served.
2. Emergency vehicle access shall be provided by both a "Knox" over-ride switch or other device approved by the authority district.
3. An approved hammerhead, turn-around bulb or other means of turn-around shall be provided on the entry side of the gate. Turning radius shall allow for bumper overhang and ladder truck extension beyond front wheels
4. Gates shall automatically open from the interior without use of a special code or device. (Magnetic strip or pressure pad assemblies are acceptable).
5. All electric gates shall fail in the open position, i.e. loss of power, battery failure.
6. Vertical clearances shall be no less than 15'.
7. Gate shall be located no closer than 30' from the intersecting roadway ultimate edge of pavement.
8. Provide a separate personnel gate or opening sized and surfaced to allow for pedestrian and wheelchair access.
9. Gate components shall be maintained in an operative condition at all times and replaced or repaired when defective.
10. All future traffic calming projects shall have fire department approval.

Mike DiMaggio  
Placer County Fire Protection Planner

## **Lisa Carnahan**

---

**From:** John Celmer <johncelmer@comcast.net>  
**Sent:** Friday, March 11, 2016 7:12 AM  
**To:** 'Michelle Engel'; Lisa Carnahan; Placer County Planning; storerdas@comcast.net; info@2NCM.com  
**Cc:** 'Warfield, Bonni'; 'Caryn Frazier'; 'Debbie Cancilla'; 'Dale Herrington'; 'Paolo Cancilla'; 'Chris Warfield'; 'Frank Bigler'; 'Chris Warfield'; 'Nemie Celmer'; 'Kimberly Bailey'; melissa.valle@comcast.net; 'Curt SCHMITKE'; jwilcox@sbcglobal.net; jloffman@hotmail.com; 'Barry HeislerWillowCreek'; 'Martha Heisler'; 'Josh Fisher'; 'Jillian Fisher'; 'Renee'; 'Manuel Moreira'; 'Ana Moreira'; Cardin1@sbcglobal.net; 'Monica Woodworth'; gregfiles@comcast.net; 'Shannon Similai'; debaimd@yahoo.com; thecooks@surewest.net; mommy2hatedog@yahoo.com; synapsemw@gmail.com; dhankin@hotmail.com; macsparrow@me.com; 'Shearer, Marty'; ppadda@comcast.net; jala\_m@msn.com; 'jim kim'; 'Ren Kaur'; 'Maren McPeak'; kellynair@hotmail.com; olegpetrik@msn.com; dave\_lincoln@questsys.com; shahi7842@hotmail.com; agranitrn1961@comcast.net; MikeR944@yahoo.com; 'Sherwin Panem'; mwanderson@hertz.com; paultroxel@gmail.com; bojowa6@yahoo.com  
**Subject:** RE: Willow Creek Gate

Hello Michelle, Lisa, David, Placer County Planning Dept, and 2ncm,

Unless all of you stop collaborating in violation of the law, you and Placer County may be subject to a lawsuit.

At the February 10, 2016 meeting of the West Placer Municipal Advisory Council (MAC), Lisa Carnahan announced to the MAC that the Willow Creek Homeowners Association (HOA) election of June, 2015 voted with a 58% majority in favor of the gate. At that MAC meeting I informed the MAC that Willow Creek HOA bylaws, paragraph 13.08.b required a 67% majority to change the Conditional Use Permit and paragraph 13.08.b.ii required a 67% majority for material changes to assessments, assessment liens, or subordination of assessment liens. After learning of the 67% requirements, instead of voting to approve the gate project, the MAC voted to postpone their decision until the March 9, 2016 MAC meeting.

At the March 9, 2016 meeting of the MAC, Lisa Carnahan again announced the 58% election to the MAC, despite having been informed at the previous MAC meeting and having been informed in an email dated February 16, 2016 that I wrote to her and the MAC, that a 67% majority was required for the gate project and 67% was required for assessments. At this March 9 MAC meeting, the MAC members did not want to hear any more legal justifications. The MAC voted against the gate.

The Willow Creek Board of Directors (BOD) provided 2 attorney letters, but those attorneys did not cite any case law supporting the BOD, nor did the attorneys cite the law governing the HOA bylaws, namely the California Corporations Code. All of the "TO" addressees are knowingly collaborating in violation of California Corporations Code, Title 1. Division 2. Part 3. Chapter 5. Article 1. Section 7512, which says:

### **7512.**

(a) One-third of the voting power, represented in person or by proxy, shall constitute a quorum at a meeting of members, but, subject to subdivisions (b) and (c), a bylaw may set a different quorum. Any bylaw amendment to increase the quorum may be adopted only by approval of the members (Section 5034). If a quorum is present, the affirmative vote of the majority of the voting power represented at the meeting, entitled to vote, and voting on any matter shall be the

act of the members unless the vote of a greater number or voting by classes is required by this part or the articles or bylaws.

Our HOA bylaws, section 8.05, says:

“Regular Annual Assessments and Special Assessments shall be conducted in accordance with Chapter 5 (commencing with Section 7510) of Part 3, Division 2 of Title 1 of the Corporations Code.”

Our HOA bylaws, section 13.08.b, says:

“The approval of 67% of the total voting power of the Association...must be obtained for amendments of a material nature to the Project Documents. A change to any of the following would be considered as material:

section 13.08.b.ii says:

Assessments, assessment liens, or subordination of assessment liens;

Once again, I ask the “TO” addressees to stop collaborating in violation of the law and our bylaws.

Thank you.  
John Celmer

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**From:** John Celmer [mailto:johncelmer@comcast.net]

**Sent:** Wednesday, March 9, 2016 10:53 PM

**To:** 'Michelle Engel' <michelleengelwillowcreek@gmail.com>; 'Lisa Carnahan' <LCarnaha@placer.ca.gov>; 'planning@placer.ca.gov' <planning@placer.ca.gov>; 'storerdas@comcast.net' <storerdas@comcast.net>; 'info@2NCM.com' <info@2NCM.com>

**Cc:** 'Caryn Frazier' <caryn7@comcast.net>; 'Debbie Cancilla' <pdcrealestate@gmail.com>; 'Dale Herrington' <daleh@surewest.net>; 'Paolo Cancilla' <pcrealestate@gmail.com>; 'Warfield, Bonni' <BWarfield@roseville.ca.us>; 'Chris Warfield' <cwarfield@hydropoint.com>; 'Frank Bigler' <f.bigler@comcast.net>; 'Chris Warfield' <chrisko1987@yahoo.com>; 'Nemie Celmer' <nemielcelmer@comcast.net>; 'Kimberly Bailey' <skuugibear@gmail.com>; 'melissa.valle@comcast.net' <melissa.valle@comcast.net>; 'Curt SCHMITKE' <Cschmitke@yahoo.com>; 'jvwilcox@sbcglobal.net' <jvwilcox@sbcglobal.net>; 'jloffman@hotmail.com' <jloffman@hotmail.com>; 'Barry HeislerWillowCreek' <BarryH3150@comcast.net>; 'M.A. Heisler' <Brencori@att.net>; 'Josh Fisher' <Josh\_Fisher3@hotmail.com>; 'Jillian Fisher' <Jharkfish@gmail.com>; 'Renee' <roserenee@comcast.net>; 'Manuel Moreira' <mamoreirag@gmail.com>; 'Ana Moreira' <Moreiraanam@gmail.com>; 'Cardin1@sbcglobal.net' <Cardin1@sbcglobal.net>; 'Monica Woodworth' <monica.woodworth@gmail.com>; 'gregfiles@comcast.net' <gregfiles@comcast.net>; 'Shannon Similai' <SimilaiShannon@comcast.net>; 'debaimd@yahoo.com' <debaimd@yahoo.com>; 'thecooks@surewest.net' <thecooks@surewest.net>; 'mommy2natedog@yahoo.com' <mommy2natedog@yahoo.com>; 'synapsemw@gmail.com' <synapsemw@gmail.com>; 'dhankin@hotmail.com' <dhankin@hotmail.com>; 'macsparrow@me.com' <macsparrow@me.com>; 'Shearer, Marty' <marty.shearer@colliers.com>; 'ppadda@comcast.net' <ppadda@comcast.net>; 'jala\_m@msn.com' <jala\_m@msn.com>; 'jim kim' <jimkim17@gmail.com>; 'Ren Kaur' <Renkaur1@gmail.com>; 'Maren McPeak' <maren.mcpeak@gmail.com>; 'kellynair@hotmail.com' <kellynair@hotmail.com>; 'olegpetrik@msn.com' <olegpetrik@msn.com>; 'dave\_lincoln@questsys.com' <dave\_lincoln@questsys.com>; 'shahi7842@hotmail.com' <shahi7842@hotmail.com>; 'agranitrn1961@comcast.net' <agranitrn1961@comcast.net>; 'MikeR944@yahoo.com' <MikeR944@yahoo.com>; 'Sherwin Panem' <sherwinpanem@gmail.com>; 'mwanderson@hertz.com' <mwanderson@hertz.com>; 'paultroxel@gmail.com' <paultroxel@gmail.com>; 'bojowa6@yahoo.com' <bojowa6@yahoo.com>

**Subject:** Willow Creek GaBonni' <BWarfield@roseville.ca.us>te

Hello Michelle, Lisa, David, Placer County Planning Dept, and Zncm,

Tonight the MAC voted 3-2 against the gate, but not on legal grounds.

The MAC members did not want to hear how our HOA Board of Directors is violating the law. Our CCRs are bylaws. The law that governs how bylaws are written and administered is known as the California Corporation Code. There are sections of the California Corporation Code that cover entities like a HOA.

In my opinion the Willow Creek HOA BOD is violating the law by not administering our CCRs in accordance with the California Corporation Code.

I request that the Willow Creek HOA BOD, Lisa Carnahan, David Storer, the Placer County Planning Dept and Zncm stop collaborating on the gate project in violation of the California Corporation Code.

Thank you.  
John Celmer

**Kathi Heckert**

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**From:** Lisa Carnahan  
**Sent:** Thursday, March 10, 2016 11:05 AM  
**To:** Diane Howe (dianeh@surewest.net); Kathi Heckert  
**Cc:** Matt Labriola (mlabriola@frontieragco.com)  
**Subject:** FW: MAC Meeting: Willow Creek

The author of the following email has requested that his email be sent to both the MAC members and Planning Commissioners.

Thank you,

*Lisa Carnahan*  
Associate Planner  
Planning Services Division  
3091 County Center Drive  
Auburn, CA 95603  
(530) 745-3067  
[lcarnaha@placer.ca.gov](mailto:lcarnaha@placer.ca.gov)



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**From:** Matt Labriola [mailto:[mlabriola@frontieragco.com](mailto:mlabriola@frontieragco.com)]  
**Sent:** Thursday, March 10, 2016 9:33 AM  
**To:** Lisa Carnahan  
**Subject:** RE: MAC Meeting: Willow Creek

Lisa:

Thanks for attending the MAC meeting last night. I came away from that meeting with a sour taste in my mouth. I think the detractors of the gate played their 'we are too poor to afford the gate' card a little too far. These houses are \$450-700k houses.....they aren't 100-200k condos. The people who purchased these houses make enough money to afford to live here. They also bought a house in a community with an association that has monthly dues. Rules and dues in an association can and will change over the time. We all knew this going in when I purchased houses here. The association dues started at \$155/month starting when the community was built. Now the dues are \$132/month. The dues will certainly rise \$30-40/month in light of the gate project, but that doesn't break the bank for any of these people.

I believe that everyone is entitled to their opinion, however the fact is we voted on the gate and it passed should have been evidence the neighborhood supports the gate. I think the MAC committee was askew with their thought process during their vote. I realize this was not the end for our gate.

The rural landscape of South Western Placer County is changing to more of a suburban atmosphere. We as a community need to keep up with the changes and meet and address challenges of crime, increased population, and new traffic patterns. The gate adds a layer of protection and peace of mind for the community.

I heard there is another meeting scheduled for next month at the county offices. Please forward this email to the rest of the committee who plans on attending or playing a role in the decision to vote on this issue.

Again, I can't stress this point enough. Please don't allow the voice of a boisterous minority against the gate overshadow a majority vote for the gate.

Regards,

**Matt Labriola**

Phone: (530) 297-1020 Ext. 102

Cell: (916) 869-8104

Fax: (530) 297-1022

Email: [mfabriola@frontieragco.com](mailto:mfabriola@frontieragco.com)



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**From:** Matt Labriola

**Sent:** Wednesday, February 10, 2016 2:27 PM

**To:** 'lcaraha@placer.ca.gov'

**Subject:** FW: MAC Meeting: Willow Creek

Hi Lisa:

I live in the Willow Creek community. Unfortunately, I have a prior obligation and cannot make the meeting tonight. I wish to share a few of my thoughts in hopes my voice will be heard.

I voted last year to have a motorized gate placed at the main entrance and a stationary gate on the side of the neighborhood for several reasons. The landscape in the county is changing. It's becoming less rural. There are thousands of houses planned for this area in the coming years. This will undoubtedly change the traffic situation here. I would very much prefer to keep needless traffic out of our neighborhood. Living in the first court off of PFE, I see countless cars circling through my court needlessly. With the gate, I believe the neighborhood will be a better place to live. It will be safer with less traffic.

Most communities will have at least some opposition to the notion of a gate. This neighborhood is no different. We voted and passed the gate plan almost a year ago. There have been a handful of boisterous people that have fought against the gate. When the gate project was passed by the community, all three of the board members were opposed to the gate project. During the same time as the gate vote, two board members were voted off the board and third resigned.

This has project has been an uphill battle for several years the community. Please know the former board members wrote the gate initiative/proposal/ballot made it as unattractive as they could, yet they lost the gate battle and 2 were voted off the board. I suspect some of the same former board members who have opposed the project are going to show tonight and will appear they have numbers and backing to squash this project. Please don't let them do this. We as a community have already spoken through a proper vote.

Long term, the gate is going to be a very good thing for this neighborhood. I feel that once the gate is put in place some of the detractors will have a change of heart.

Please feel free to contact me with any questions you may have.

Kind Regards,

**Matt Labriola**

Phone: (530) 297-1020 Ext. 102

Cell: (916) 869-8104

Fax: (530) 297-1022

Email: [mlabriola@frontieragco.com](mailto:mlabriola@frontieragco.com)



**Frontier Ag**

March 8, 2016

**To: WEST PLACER MUNICIPAL ADVISORY COUNCIL**

From: Caryn Frazier, resident of Willow Park subdivision

Re: VOTE NO on change of Conditional Use Permit

This letter is in response to the proposal for a gated entrance to the Willow Park subdivision located on the corner of PFE and Cook-Riolo Rd. In addition to the information found in our CC&R's regarding a vote of 67% approval for changing project documents that govern this neighborhood, I would like to add the concern of a biased board dangerously pushing an agenda for their own gain while ignoring financial concerns of members of our community, our CC&R guidelines and damaging our reserves.

1. Beginning January 1<sup>st</sup> of this year, each household has been required to pay the special assessment of \$1658 *BEFORE* gaining approval of the MAC or the County Planning Commission. We have the option of paying this amount in full or over a 2 year period. However, once the project is approved we will be charged a monthly convenience fee for not being able to pay the amount in full in addition to any late fees that may accumulate. If we are not able to pay the total assessment of \$170 a month for the next 2 years, we also risk having our house put in lien. This is an obscene amount of money to be asking from each homeowner. **We are a small neighborhood with varying income levels and this is imposing serious costs on many of us, particularly for a project we do not see any value in.** My household is a single income household. We live on a tight budget and have made sacrifices so that I can stay home and school our children. There are other homes in our community that are also on a fixed budget due to either being retired or taking a parent in to care for. The amount of \$1658 is not small change. Now we do have the option of submitting a letter of hardship to the board. I did make such a submission in Dec of last year in which I have never received a reply.

2. Once the dispute over our June vote came to light and the MAC tabled the vote on the Conditional Use Permit, the county hearing meeting was also canceled. Another meeting was set up with the county to discuss the vote dispute that was supposed to be open to community members to attend as well. Our HOA president, Michelle Engel sent a memo out to the community stating that the county did not want to hold this open forum meeting at their facility and it was not possible for them to attend one of our meetings, so sorry, it was now a private meeting only between Michelle, Dave, our community manager, and the county. Those of us that opposed the gate were very uncomfortable with that proposal. Upon further inquiry with the county, 2 members of our community were allowed to attend. During this meeting Michelle pushed the opinions of the 2 lawyers, which cited no precedent, over our actual CC&R's! I find this very alarming that the CC&R's were so nonchalantly tossed aside by our residing president who is supposed to uphold these documents.

3. This past weekend it was reported that another one of our board members, Garrett Hamilton, was visiting homes to try to persuade a few of our neighbors to change their opinions on opposing a gate. He was polite enough, but I find it inappropriate for a board member to so blatantly put his own desires in front of the concerns of those in our community.

4. My final concern is the misuse of our reserves since this board took office. In order to keep our assessment as low as possible, they have lulled the neighborhood into believing they were able to reduce our original assessment fees from \$133 to \$101, plus the additional \$69 for the gate. What they are doing in reality is reducing the amount of money being paid into our reserves from \$40 a month per household, to just \$10. So what really happens in 2 years once the gate is paid for? Our dues will jump back up to \$140-150 to make up for the lost money and bring our reserves back up to a healthy status. They are playing a very high risk game with the community's money in order to push through this gate leaving us with even higher dues than we started with and jeopardizing many homes ability to continue to pay such high dues.

Seventy-six homeowners moved into this neighborhood fully aware that this is an un-gated community. I do not want to live in a gated community. Not only do I find gates to be an absolute nuisance, but there is no proof that it would actually deter the minimal crime we have experienced. My husband works hard for a living to provide for his family and to legitimize the stealing of \$1700 from our family so that a small minority can feel better about themselves is appalling.

I ask that you make a negative recommendation to the planning committee regarding the proposal to change the Conditional Use permit for the Willow Creek subdivision based on our current CC&R guidelines and the inappropriate activity of our board. This is a community investment that is not worth the costs associated with it.

Thank you.

Caryn Frazier, Daniel Hagyard  
9840 Duckweed St, Roseville

## Lisa Carnahan

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**From:** Diane Howe <dianeh@surewest.net>  
**Sent:** Tuesday, February 16, 2016 11:21 AM  
**To:** "John Hottel"; 'Carolyn Riolo'; "Walter Wyllie"; darrylo@surewest.net; 'Butler, Alicia'  
**Cc:** 'Jack Duran'; Cristina Rivera; Lisa Carnahan  
**Subject:** FW: Willow Park Use Permit  
**Attachments:** Letter to Placer County Planning Dept.pdf; Hansen opinion reg 13 08.pdf; Inman opinion reg 13 08.pdf

The attached were sent to me as follow up on the Willow Park gate issue from the MAC meeting. Diane

---

**From:** John Celmer [mailto:johncelmer@comcast.net]  
**Sent:** Tuesday, February 16, 2016 10:01 AM  
**To:** 'Diane Howe'  
**Subject:** Willow Park Use Permit

Hi Diane,

The attorneys for the Willow Park Board of Directors have provided invalid opinions that are contrary to our CCRs. I have attached their opinions to this email. Michelle Engel, President of our Board of Directors, insists she will meet privately with the County representatives. No homeowners who oppose the gate are allowed to attend the meeting.

I have attached my letter to the Placer County Planning Department asking it to stop collaborating with our Board of Directors because the County, according to section 15.06 of our CCRs, has not yet received a proposed amendment approved by 67% of our members.

Please make my letter and the opinions of the attorneys available to all of the members of the West Placer Municipal Advisory Committee.

Thank you.  
John Celmer

John Celmer  
9630 Canopy Tree Street  
Roseville, CA 95747

February 16, 2016

To: Placer County Planning Department  
Auburn, CA 95603

References: a) Memorandum, Inman Law Group, LLP, Bruce, R. Inman, Esq,  
dated February 12, 2016, Re: Vote Related to Capital  
Improvement Project and Special Assessment  
b) Email, Baydaline & Jacobsen LLP, John D. Hansen, Esq,  
dated February 12, 2016, Re: Clarification of approval  
requirements for gate vote

Dear Members of Placer County Planning Department,

I believe the attorneys for the Willow Park Board of Directors (BOD) made invalid claims about our CCRs in references a) and b). Mr. Hansen claims that "Conditions of Approval...would be separate from the Project Documents and would not require approval of the membership". Mr. Inman claims that "the Conditions of Approval are not included in the definition of 'Project Documents' described in section 2.29 of the Declaration". In response to Mr. Hansen, his claim is invalid because the Conditions of Approval are NOT separate documents. They are part of the Project Documents. In response to Mr. Inman, his claim is invalid because the CCRs in section 2.29 define Project Documents as:

"Project Documents" shall mean and include this Declaration as amended from time to time... together with the other basic documents used to CREATE and GOVERN the project. (my emphasis).

Unquestionably, the Conditional Use Permit is a basic document that was used to CREATE the project. The Conditional Use Permit paragraph 66 that says "gated entry's prohibited", is part of the Conditions of Approval according to section 2.11. Section 15.06 describes the requirements of Placer County as approving "proposed amendments to the Project Documents that affect Conditions of Approval". Thus far, 67% of the members, as required by section 13.08.b), have not approved any proposed amendment to the basic document, namely the Conditional Use Permit, used to CREATE the project. Recall from section 13.08.b) that:

"The approval of 67%...must be obtained for amendments of a material nature to the Project Documents".

Mr. Hansen invalidly claims that "Neither the members nor the mortgagees have any control over the Conditions of Approval". As I have just shown, 67% membership approval is required "for amendments of a material nature to the Project Documents". I must necessarily be redundant; the Conditions of Approval include the Conditional Use Permit which is a part of the basic Project Documents used to CREATE the project.

Mr. Inman in reference a) implies that Section 13.08.b) is not part of our CCRs and only applies to condominium projects. I reject those remarks because Section 13.08.b) is definitely part of our CCRs and GOVERNS the Board of Directors and the members.

Mr. Hansen invalidly claims that "Conditions of Approval...would not likely be considered a 'material' amendment under Section 13.08.b) as it is not found in the extensive list of material amendments". Mr. Hansen's claim is invalid because the Conditions of Approval, which includes the Conditional Use Permit, was already included when 13.08.b) specified that 67% approval was needed for amending Project Documents, which includes "basic documents used to CREATE and GOVERN the project".

Mr. Hansen, when he made reference to the list of items under Section 13.08.b) did not mention item ii) Assessments, assessment liens, or subordination of assessment liens. Mr. Hansen should be well aware that this community did not give 67% approval to a material change in assessments.

I ask the Placer County Planning Department to terminate any further discussions with our Board of Directors because, according to section 15.06, the County has not received any proposed amendment to the Conditional Use Permit approved by 67% of the homeowners, nor has there been a 67% approval of the material change in assessments. Also, the Municipal Advisory Council has not concluded its review of the Gate Project.

Sincerely,

  
John Celmer

Copy to: 1) Michelle Engel, Willow Park Board of Directors  
2) West Placer Municipal Advisory Council



Mail - Willow Park, CA - 152d82a2b3bb4a49@gmail.com

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## Clarification of approval requirements for gate vote

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John D. Hansen <jhansen@bayjaclaw.com>  
To: Michelle Engel <michelleengelwillowcreek@gmail.com>

Fri, Feb 12, 2016 at 5:06 PM

Dear Willow Park,

It is my understanding a question arose as to whether the heightened approval requirements for certain amendments to the governing documents applies to the gate project vote due to potential changes to the Conditions of Approval for the development. Nothing in Section 13.08 of the Declaration would be triggered by a capital improvement project, namely the entry gate and related improvements. The gate project does not amend the governing documents, also called the "Project Documents", so the amendment provisions of the Declaration do not apply. There are also no references to Conditions of Approval in Section 13.08(b) of the Declaration. Section 13.08(b) of the Declaration only applies to material amendments of the Project Documents, so if you were required to modify the Conditions of Approval for the development, that would be separate from the Project Documents and would not require approval of the membership. Conditions of Approval can only be changed by the County and do not have any relationship to a vote of the membership. See Section 2.29 of the Declaration defining Project Documents, which does not include the conditions of approval. "Project Documents" is another term for "governing documents," which is the term used in the Civil Code for homeowners associations. See Civil Code Section 4150. The Project Documents are those that are enforceable by the members and against the members, and those that protect the First Mortgagees. The purpose of Section 13.08(b) is to require additional approvals for "material" changes to the Project Documents because those are considered important to mortgagees, and it protects the mortgagees to have heightened approval percentages, and mortgagee approval in some cases. Neither the members nor the mortgagees have any control over the Conditions of Approval, so they are separate and apart from the Project Documents. Conditions of Approval are akin to a building permit or County ordinances. Even if the addition of a gate required an amendment to the Conditions of Approval, that would not likely be considered a "material" amendment under Section 13.08(b) as it is not found in the extensive list of material amendments. With that said, the conditions of approval are not subject to Section 13.08(b), so that is a moot point. We trust this clarifies the voting on the gate project. This information is for the members and is not an attorney client privileged communication. The attorney client privilege is therefore not being waived by this explanation.

Thank you,

John

**JOHN D. HANSEN, ESQ.**  
**BAYDALINE & JACOBSEN LLP**  
**895 University Avenue**  
**Sacramento, California 95825-6724**  
**(916) 669-3500 (phone)**  
**(916) 669-3501 (fax)**  
**[jhansen@bayjaclaw.com](mailto:jhansen@bayjaclaw.com)**  
**[www.bayjaclaw.com](http://www.bayjaclaw.com)**

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**Inman Law Group, LLP**

**To:** Willow Park Owners' Association  
**From:** Bruce R. Inman, Esq.  
**Date:** February 12, 2016  
**Re:** Vote Related to Capital Improvement Project and Special Assessment

---

You have asked me to respond to a concern raised by a member of the Willow Park Owners' Association ("Association") regarding the validity of the above-referenced membership vote, which was completed in June, 2015.

It is our understanding that a valid quorum of the Association's members cast votes and the proposed capital improvement project and special assessment were approved by the Association's members, with approximately 58% of the votes cast to approve the proposal.

An Association member has questioned the validity of the June, 2015 vote, citing Section 13.08 of the Association's Declaration of CC&Rs. Section 13.08 of the Declaration describes certain specific situations where "material amendments" to the Association's "Project Documents" must be approved by 67% of the Association's members and 51% of the "Eligible First Mortgagees."

We have reviewed the applicable Association documentation and find the June, 2015, membership vote valid and in accordance with the Association's governing documents and California law.

As an initial point, the June, 2015 membership vote was not a vote to amend the Association's "Project Documents" – It was a vote authorizing the Association's board to expend funds for a capital improvement project and to also authorize the board to impose a special assessment to pay for the capital improvement project.

In addition, the proposed change to the Placer County Conditional Use Permit (CUP 2747) to permit the installation of gates within the Association is not an amendment to the "Project Documents" which would trigger the application of Section 13.08. The Declaration of CC&Rs includes a specific definition of "Conditions of Approval" (including the conditional use permit) in Section 2.11. The Conditions of Approval are not included in the definition of "Project Documents" described in Section 2.29 of the Declaration. Consequently, an amendment by the County to the County's conditional use permit, is not a material amendment to the Association's Project Documents for purposes of Section 13.08.

It is worth noting that the lender voting provisions contained in Article 13 are intended to apply only to condominium projects and not planned developments such as Willow Park. The inclusion of these provisions in the Association's governing documents is not illegal, but the underlying purpose of these provisions is to address condominium association governing document changes that could impact multi-family style buildings within common area roofs and siding and the provisions are not required by lenders for planned development subdivisions.

**Inman Law Group, LLP**

**To:** Willow Park Owners' Association  
**From:** Bruce R. Inman, Esq.  
**Date:** February 12, 2016  
**Re:** Vote Related to Capital Improvement Project and Special Assessment

---

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We have reviewed the applicable Association documentation and find the June, 2015, membership vote valid and in accordance with the Association's governing documents and California law.

As an initial point, the June, 2015 membership vote was not a vote to amend the Association's "Project Documents" – It was a vote authorizing the Association's board to expend funds for a capital improvement project and to also authorize the board to impose a special assessment to pay for the capital improvement project.

In addition, the proposed change to the Placer County Conditional Use Permit (CUP 2747) to permit the installation of gates within the Association is not an amendment to the "Project Documents" which would trigger the application of Section 13.08. The Declaration of CC&Rs includes a specific definition of "Conditions of Approval" (including the conditional use permit) in Section 2.11. The Conditions of Approval are not included in the definition of "Project Documents" described in Section 2.29 of the Declaration. Consequently, an amendment by the County to the County's conditional use permit, is not a material amendment to the Association's Project Documents for purposes of Section 13.08.

It is worth noting that the lender voting provisions contained in Article 13 are intended to apply only to condominium projects and not planned developments such as Willow Park. The inclusion of these provisions in the Association's governing documents is not illegal, but the underlying purpose of these provisions is to address condominium association governing document changes that could impact multi-family style buildings within common area roofs and siding and the provisions are not required by lenders for planned development subdivisions.

**Lisa Carnahan**

---

**From:** Michelle Engel <michelleengelwillowcreek@gmail.com>  
**Sent:** Thursday, February 11, 2016 11:17 AM  
**To:** Lisa Carnahan  
**Subject:** Fwd: Urgent Clarification Needed

Response from former HOA attorney regarding the exclusion of section 13.08(b) as mentioned by resident John Celmer. Essentially he is concluding that section 13.08 does not apply to this situation and is therefore moot.

I'll let you know once we get a formal opinion on the same subject from our current legal counsel.

Thank you.

----- Forwarded message -----

**From:** John D. Hansen <jhansen@bayjaclaw.com>  
**Date:** Thursday, February 11, 2016  
**Subject:** Urgent Clarification Needed  
**To:** Michelle Engel <michelleengelwillowcreek@gmail.com>

Good morning Michelle,

It is my understanding that we are no longer your legal counsel, so I recommend you consult with your current attorney regarding any and all legal questions you may have. If I am mistaken in that regard, please let me know. With that said, I do not see any provision of Section 13.08 of the Declaration that would be triggered by a capital improvement project, namely the entry gate and related improvements. Further, I do not see any reference to Conditions of Approval in Section 13.08(b) of the Declaration. Section 13.08(b) of the Declaration only applies to material amendments of the Project Documents, so if you were required to modify the Conditions of Approval for the development, that would be separate from the Project Documents and would not require approval of the membership. Conditions of Approval can only be changed by the County and do not have any relationship to a vote of the membership. See Section 2.29 of the Declaration defining Project Documents, which does not include the conditions of approval. "Project Documents" is another term for "governing documents," which is the term used in the Civil Code for homeowners associations. See Civil Code Section 4150. The Project Documents are those that are enforceable by the members and against the members, and those that protect the First Mortgagees. The purpose of Section 13.08(b) is to require additional approvals for "material" changes because those are considered important to mortgagees, and it protects the mortgagees to have heightened approval percentages, and mortgagee approval in some cases. Neither the members nor the mortgagees have any control over the Conditions of Approval, so they are separate and apart from the Project Documents. Conditions of Approval are akin to a building permit. Even if the addition of a gate required an amendment to the Conditions of Approval, we do not believe that would be considered a "material" amendment under Section 13.08(b) as it is not found in the extensive list of material amendments. With that said, we do not believe the conditions of approval are not subject to Section 13.08(b), so that is a moot point. It is our understanding that the Association had previously retained separate counsel regarding the gate issue, who could provide you with guidance regarding changes to the Conditions of Approval.

With respect to your file, we would be happy to provide it to you. If you would like it transferred to your current general counsel, please provide a signed authorization for us to release it to the attorney. We will need a few days' notice to ensure we have it all together, but from my quick review, it all appears to be in order. There is no cost to you for providing the file.

Thank you,

John

JOHN D. HANSEN, ESQ.  
BAYDALINE & JACOBSEN LLP  
895 University Avenue  
Sacramento, California 95825-6724  
(916) 669-3500 (phone)  
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[www.bayjaclaw.com](http://www.bayjaclaw.com)

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**From:** Michelle Engel [mailto:[michelleengelwillowcreek@gmail.com](mailto:michelleengelwillowcreek@gmail.com)]  
**Sent:** Thursday, February 11, 2016 9:07 AM  
**To:** John D. Hansen  
**Subject:** Urgent Clarification Needed

Hello John,

We had a meeting last night with our local MAC regarding the gating project.

It was brought up by former board members and a few residents that the vote that your firm and FirstService facilitated last summer is incomplete because it failed to address section 13.08(b) of our CCnR's. (Specially that the voting requirements were not met because we did not meet the 67% approval status and that

amending our Conditions of Approval via a CUP Modification process falls under the definition of "material" as it is outlined in this section 13.08(b) ).

I have since reviewed the attached "gate legal file" we received several months back from Denise at FS and I was unable to locate any mention of section 13.08(b) in this file.

We are asking for clarification from you regarding this. If in fact section 13.08(b) does apply to this project then I would like some clarification as to why we failed to include this in the vote completed this last summer. If it does not apply then I would appreciate something in writing from you explaining why it doesn't.

In addition, the attached legal file seems rather small compared to the amount money we spent on legal fees for this matter. Therefore we would like to inquire about obtaining our entire legal file from your firm. Please advise on the process and costs associated with this.

Thank you for the clarification. Please let me know how quickly you can get this answer to us as we have county deadlines we need to meet.

Thank you.

Michelle Engel

----- Forwarded message -----

From: **Denise Fullmer** <[Denise.Fullmer@fsresidential.com](mailto:Denise.Fullmer@fsresidential.com)>

Date: Monday, July 6, 2015

Subject: Baydaline & Jacobsen Legal Correspondence

To: Barry Heisler <[BarryH3150@comcast.net](mailto:BarryH3150@comcast.net)>, "Michelle Engel ([Michelleengelwillowcreek@gmail.com](mailto:Michelleengelwillowcreek@gmail.com))" <[Michelleengelwillowcreek@gmail.com](mailto:Michelleengelwillowcreek@gmail.com)>

Good Morning:

Garrett Hamilton has asked that the attached legal file be sent to you. Please do not reply to all or discuss the contents via email or outside of a meeting of the Board as it is considered a violation of the Open Meeting Act. In addition, all legal and Executive Session business is not to be shared with anyone who is not on the Board as that is also a violation of your Fiduciary duties and responsibility as a Board member.

As previously offered, Baydaline & Jacobsen can provide a Board Orientation to review all expectations and requirements when serving on the HOA Board. The cost is covered under the Legal Services Plan. None of the 12 hours included in the plan had been utilized yet by the prior Board. If you are interested in Management scheduling an orientation for you. Please let me know so that I can coordinate potential dates/times with Attorney John Hansen.

Thank you in advance.

**DENISE FULLMER, CCAM, CMCA**  
Regional Manager

12009 Foundation Place, Suite 310 | Gold River, CA 95670  
Direct 916.608.3068 ext 4747 | Facsimile 916.608.3067 | Toll Free 800.428.5588  
Email [denise.fullmer@fsresidential.com](mailto:denise.fullmer@fsresidential.com)  
[www.fsresidential.com](http://www.fsresidential.com)

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John Celmer  
9630 Canopy Tree Street  
Roseville, CA 95747

February 8, 2016

Subject: Willow Park Use Permit

To: West Placer Municipal Advisory Council (MAC)

John R. Hottel  
Alicia Butler  
Carolyn Riolo  
Darryl Osborne  
Walter Wyllie

Dear Members of MAC,

When I purchased a home at Willow Park, I purchased the home because the Standard Pacific builder assured me that a gate was prohibited. Subsequently this community had a vote on a gate project, but it NEVER VOTED to remove the following prohibition from the Conditional Use Permit.

Paragraph 66 on page 26 of 35 of the Conditional Use Permit says:

Any entrance structure proposed by the applicant shall be reviewed and approved by the DRC, shown on the project Improvement Plans, and shall be located such that there is no interference with driver sight distance as determined by the DPW, and shall not be located within the right-of-way and shall not restrict vehicular access (ie. gated entry's prohibited). Access along Cook Riolo Road is limited to emergency vehicle access only.

I believe this prohibition against the gate still exists. I respectfully ask the Municipal Advisory Council to disapprove the gate project.

Sincerely,

John Celmer

February 10, 2016

***Sent via Email***

Lisa Carnahan  
Associate Planner  
Planning Services Division  
3091 County Center Drive  
Auburn, CA 95603  
[lcarnaha@placer.ca.gov](mailto:lcarnaha@placer.ca.gov)

Re: Voting Details from 6/4/15 Community Gate Project Vote

Dear Ms. Carnahan,

Please allow this memo to service as formal documentation outlining some specific details of the vote that took place regarding the Willow Park Owners' Association Proposed Entrance Gate Project:

- 1) **What was the purpose of the vote:** The vote was required per Civil Code section 5605(b) that states in part that the board may not "...impose special assessments which in the aggregate exceed 5 percent of the budgeted gross expenses of the association for that fiscal year without approval of a majority of a quorum of members..." In addition, at the Pre-Development Meeting with the County on March 10, 2015, we were advised that the County would prefer to see a vote completed in favor of the gate prior to submittal of the CUP Modification Application. So the vote was completed to satisfy the state requirements and the County's preference.
- 2) **When did the vote take place:** In May of 2015 the gate-voting package was mailed out to every homeowner within the Willow Park Subdivision. On June 4, 2015, the official counting of the ballots took place.
- 3) **Who witnessed the vote:** the vote was witnessed and counted by the inspector of elections, Jennifer M. Jensen who is a third party representative, duly appointed by the Board of Directors at the time, pursuant to the

Page 1 of 2

ATTACHMENT G

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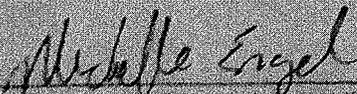
governing documents of the association. In addition, Ms. Jensen had a fellow colleague with her at the time assisting with the count.

- 4) **What were the results of the vote:** The results of the vote showed 33 in favor with 24 against (it should be noted that of the 24 against, there were a handful who voted against the gate for financial reasons only - the new BOD has since updated the payment options for those facing a difficult time with the extra costs). A quorum of 50% of the members plus one was required and satisfied pursuant to Section 7.06(b) of the CCnR's and Civil Code section 5605.

Attached please find the following in support of the above information:

- 1) Civil Code section 5605
- 2) Willow Park CCnR's section 7.06(b)
- 3) Willow Park Owners' Association Secret Ballot Cover Sheet
- 4) Willow Park Owners' Association Proposed Entrance Gate Project Certificate of Quorum
- 5) Willow Creek Memo dated 6/17/15 Re: 2015 Election Results

Sincerely,

  
Michelle Engel, President, Willow Park HOA

2-10-16  
Date

## DAVIS-STIRLING ACT

### **Civil Code §5605. Assessment Approval Requirements.**

(a) Annual increases in regular assessments for any fiscal year shall not be imposed unless the board has complied with paragraphs (1), (2), (4), (5), (6), (7), and (8) of subdivision (b) of **Section 5300** with respect to that fiscal year, or has obtained the approval of a majority of a quorum of members, pursuant to **Section 4070**, at a member meeting or election. [Old: **Civ. Code §1366(a)**]

(b) Notwithstanding more restrictive limitations placed on the board by the governing documents, the board may not impose a regular assessment that is more than 20 percent greater than the regular assessment for the association's preceding fiscal year or impose special assessments which in the aggregate exceed 5 percent of the budgeted gross expenses of the association for that fiscal year without the approval of a **majority** of a quorum of members, pursuant to **Section 4070**, at a member meeting or election. [Old: **Civ. Code §1366(b)**]

(c) For the purposes of this section, "quorum" means more than 50 percent of the members. [Old: **Civ. Code §1366(a)**]

*(Added by Stats. 2012, Ch. 180, Sec. 2. Effective January 1, 2013. Operative January 1, 2014, by Sec. 3 of Ch. 180.)*

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7.02. Property Taxes and Assessments. Each Owner shall be obligated to pay any taxes or assessments levied by the County Assessor against his/her Lot and personal property. To the extent not assessed to or paid directly by the Owners, the Association shall pay all real and personal property taxes and assessments levied upon any portion of the Common Area or other Property owned by the Association.

The Association shall prepare and file annual tax returns with the federal government and the State of California and make such elections as may be necessary to reduce or eliminate the tax liability of the Association.

7.03. Insurance. The Association shall maintain casualty, liability and other insurance on behalf of the Association as required by the provisions of this Declaration.

7.04. Discharge of Liens. The Association shall discharge by payment, if necessary, any lien against the Common Area, and assess the cost thereof to the Owners responsible for the existence of said lien.

7.05. Payment of Expenses. The Association shall pay all expenses and obligations incurred by the Association in the conduct of its business including, without limitation, all licenses, taxes or governmental charges levied or imposed against the Property of the Association.

7.06. Prohibited Acts. The Association, through its Board, shall be prohibited from taking any of the following actions, except with the vote or written assent, by vote at a meeting of the Association or by written ballot without a meeting pursuant to Corporations Code Section 7519, of a simple majority of the voting power of the Association residing in Members other than the Declarant, constituting a quorum consisting of more than fifty (50) percent of the voting power of the Association residing in Members other than the Declarant:

a) Entering into a contract with a third person wherein the third person will furnish goods or services for the Common Area or the Association for a term longer than one year with the following exceptions:

i) A management contract, the terms of which have been approved in writing by the Federal Housing Administration or the Veterans Affairs;

ii) A contract with a public utility company if the rates charged for the materials or services are regulated by the Public Utilities Commission; provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate;

iii) Prepaid casualty and/or liability insurance policies of not to exceed three years duration provided that the policy permits short rate cancellation by the insured;

iv) Agreements for cable television services and equipment or satellite dish television services and equipment of not to exceed five years duration provided that the supplier is not an entity in which the Declarant has a direct or indirect ownership interest of 10% or more;

v) Agreements for sale or lease of burglar alarm and fire alarm equipment, installation and services of not to exceed five years duration provided that the supplier or suppliers are not entities in which the Declarant has a direct or indirect ownership interest of 10% or more; or,

vi) A contract for a term not to exceed three years that is terminable by the Association after no longer than one year without cause, penalty or other obligation upon ninety (90) days written notice of termination to the other party.

b) Incurring aggregate expenditures for capital improvements to the Common Area in any fiscal year in excess of 5% of the budgeted gross expenses of the Association for that fiscal year;

c) Selling during any fiscal year Property of the Association having an aggregate fair market value greater than 5% of the budgeted gross expenses of the Association for that fiscal year;

d) Paying compensation to Members of the Board or to officers of the Association for services performed in the conduct of the Association's business; provided, however, that the Board may cause a Member or officer to be reimbursed for expenses incurred in carrying on the business of the Association; or,

e) Filling of a vacancy on the Board created by the removal of a Director.

7.07. Action Requiring Consent. The Board shall take the following actions only upon obtaining consents of Members as follows:

a) The Consent of two-thirds of the voting power of the Association residing in Members other than the Declarant so long as the Declarant holds or directly controls at least 25% of the voting power of the Association, and after the Declarant no longer controls 25% or more, the consent of two-thirds of the total voting power of all Members shall be necessary to do the following:

i) Borrow money, and only with the assent (by vote or written consent) of two-thirds (2/3) of Members, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

ii) Dedicate, sell or transfer all of or any part of any interest it may have in the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members; provided that no such dedication or transfer shall be effective unless an instrument has been signed by two-thirds (2/3) of the Members agreeing to

**WILLOW PARK OWNERS' ASSOCIATION  
SECRET BALLOT**

TO VOTE ON THE PROPOSED CAPITAL IMPROVEMENT PROJECT AND SPECIAL ASSESSMENT

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The Association owns, manages and maintains the streets in Willow Park, which exist for the benefit and use of all members of Willow Park. There is a proposal by a group of members to replace our Cook Riolo emergency fire access gate with an updated emergency vehicle and pedestrian gate. The proposal also includes remote electrically operated entrance and exit gates at our main entrance on PFE Road. You will find information on the project enclosed with this package.

---

**COMMON AREA CAPITAL IMPROVEMENT PROJECT AND SPECIAL ASSESSMENT**

You are voting on a proposal to improve and add gates to the access points of the development, as described above, and a special assessment to pay for the project. The total cost of the entrance gate improvement project is estimated to cost \$126,000. If this project and special assessment is approved, you will be specially assessed to pay for the project in the amount of \$1,658.00, which can be paid in two equal installments with the first installment due by July 1, 2015. Members have the option to pay monthly upon request. Pursuant to Section 7.06(b) of the Amended and Declaration of Covenants, Conditions and Restrictions of Willow Park, and Civil Code Section 5605, a majority of the members casting ballots in an election in which a quorum is participating must approve this project and special assessment in order for the project to occur and the assessment to be levied. A quorum is 50% of the members plus one, for this kind of vote.

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I APPROVE the proposed entrance gate project as the project has been presented by the Association to the membership in the materials provided with this ballot, including the cost thereof, and the special assessment to pay for the project.

I DISAPPROVE the proposed entrance gate project as the project has been presented by the Association to the membership in the materials provided with this ballot, including the cost thereof, and the special assessment to pay for the project.

---

**Envelopes containing your secret ballot must be returned as follows in order to be counted:**

Mail the envelopes containing the secret ballot to the address pre-printed on the larger (outer) envelope; *or* hand-deliver the envelopes containing the secret ballot to the Inspector of Elections by 5:00 p.m. on Wednesday, June 3, 2015.

**The balloting period for this election is expected to close at 5:00 P.M. on Wednesday, June 3, 2015.**

The balloting period may be extended if sufficient secret ballots have not been received to establish a quorum of the members.

The quorum requirement for this member vote to approve the gate project and special assessment is 50% of the members plus one. A majority of a quorum of the members is required to approve the gate project and special assessment. **If you return your ballot without casting a vote or if the Inspector of Elections cannot determine how you cast your vote, this ballot will be counted for quorum purposes only.** Once your secret ballot is cast, it cannot be changed or revoked. A secret ballot is "cast" when it is received at one of the locations designated by the Inspector of Elections.

**An Open Board Meeting will be held on Thursday, June 4, 2015 at 6:30 p.m. in the community park to count ballots.**

Willow Park  
Owners' Association  
Proposed Entrance Gate Project

Certificate of Quorum

I, the undersigned, the inspector of election of the above named Association, hereby certify that the following number of members were present at the meeting of the said Association held this date, June 4, 2015.

Secret Ballots Submitted: 59  
Unsigned/Invalid Ballots: 127

Total: 57  
Eligible 74 = 77% of homes

Dated: June 4, 2015

  
Signature

Jennifer M. Jensen  
Printed Name

Inspector of Election  
Title

# Willow Creek

DATE: June 17, 2015  
TO: All Members Willow Park Owners' Association  
FROM: The Board of Directors  
RE: 2015 Election Results

In accordance with Civil Code §5120, the Board of Directors must notify the members of the tabulated election results within fifteen (15) days of the election.

The Proposed Entrance Gate Project and Special Assessment election for Willow Park Owners' Association on June 4, 2015 resulted in the approval of the project and special assessment.

APPROVE	33
DISAPPROVE	24

The Board of Director election held for Willow Park Owners' Association on June 15, 2015, resulted in the election of the following Directors:

MICHELLE ENGEL	32
GARRETT HAMILTON	29

The members voted in favor of IRS Revenue Ruling 70-604

YES	38
NO	3
ABSTAIN	8

If you have any questions concerning the election process please contact Denise Fullmer, Community Manager at 916-608-3068 or email at [Denise.Fullmer@fsresidential.com](mailto:Denise.Fullmer@fsresidential.com)

# ATTACHMENT E

John Celmer  
9630 Canopy Tree Street  
Roseville, CA 95747

June 2, 2016

Placer County Board of Supervisors

**Jack Duran, District 1; Robert Weygandt, District 2; Jim Holmes, District 3; Kirk Uhler, District 4;  
Jennifer Montgomery, District 5**

Reference (a) Placer County Planning Commission Hearing Video, 4/14/16

Dear Members of the Board:

On 6/21/16 you're scheduled to hear an appeal of the Willow Creek gate project. I am an opponent of the gate and am writing to ask that you deny the appeal.

At the Planning Commission hearing of this matter on 4/14/16, I made a presentation (beginning at 1:14:30 of reference (a)) that the HOA Board of Directors did not get authority from 67% of the homeowners to request a change to the Conditional Use Permit, based on our CCR section 13.08.b. The County Counsel (at 1:17:47 of reference (a)) obfuscated my remarks by claiming I said that only the Planning Commission has authority to change the CUP. Of course that's true for the Planning Commission, but not what I said. The County Counsel, however, did agree that the HOA can have an extra layers of approval BEFORE A REQUEST for a change to the CUP can be made (at 1:18:20 of reference (a)). As my presentation explained, the HOA board did not get that extra layer of approval to request the change to the CUP. Therefore the HOA board should never have requested a Planning Commission Hearing. In other words, the hearing should never have been held. Nevertheless the Planning Commission continued the hearing and did not give its approval. Since the HOA Board did not even get the proper approval from the homeowners to request the hearing, I ask the Board of Supervisors to deny the HOA board's appeal.

A further indication of the HOA board to disregard the CCRs involves their handling of the assessment to pay for the gate. Section 13.08.b.ii of the CCRs requires a 67% vote of the homeowners for a material change to assessments. The HOA board did not get a 67% vote to increase assessments for the gate, but is presently requiring homeowners to pay the assessment. The HOA board claims it has legal opinion invalidating Section 13.08.b.ii. At the recent HOA meeting on 4/27/16 when the gate was on the agenda, I asked to be shown what specific part of a legal opinion invalidated our CCRs, but neither the HOA board nor the HOA management company could do so. The minutes of the 4/27 meeting were distributed to homeowners and my request was omitted from the minutes. When I asked that the minutes be corrected and redistributed, the HOA management refused. I wrote to the President and Owner of the HOA management company, included the legal opinions, and asked where, specifically, the legal opinions invalidated our CCRs. He could not do so.

Since the Willow Creek HOA board and its management company are unwilling to abide by our CCRS to authorize a gate or pay for the gate, I respectfully request that you deny their appeal.

Sincerely,

John Celmer