

EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

AGENDA OF JUNE 22, 2016

REGULAR MEETING

TO: Ken Humphreys, Chair, and
Members of the El Dorado County Local Agency Formation
Commission

FROM: José C. Henríquez, Executive Officer

PREPARED BY: Erica Sanchez, Policy Analyst

AGENDA ITEM #6: REQUEST FOR TIME EXTENSION – DIAMANTE ESTATES
REORGANIZATION TO THE EL DORADO IRRIGATION
DISTRICT AND THE EL DORADO HILLS COUNTY WATER
DISTRICT

LAFCO Project No. 2014-01

PROPONENTS: Omni Financial, LLC

AGENT: Olga Sciorelli, CTA Engineering and Land Surveying

RECOMMENDATION

Staff recommends that the Commission consider the applicant's request for a second one-year extension to the Diamante Estates Reorganization into the El Dorado Irrigation District (EID) and the El Dorado Hills County Water District (EDH Fire) in order to allow the project proponents additional time to comply with the Commission's conditions of approval. The current deadline expires August 27, 2016; the time extension would be effective until August 27, 2017.

REASON FOR RECOMMENDED ACTION

Per Government Code §57001, if a certificate of completion is not recorded for a project within one year of Commission approval, the project shall be terminated unless the Commission grants an extension. The extension may be for any period deemed reasonable to the Commission for completion of necessary prerequisite actions by any party. The certificate of completion cannot be recorded until all conditions of approval have been met. As noted immediately below, the Diamante applicant has not yet completed all of the conditions of approval.

BACKGROUND**Summary of the Diamante Estate Project**

The applicant and landowner, Omni Financial, LLC, has County approval to subdivide the 113.11 acre project site (APN 126-100-24) into 19 single family residential lots, five to ten acres in size. The project is located on the north side of Malcolm Dixon Road, 3/4 mile east of the intersection with Salmon Falls Road in the El Dorado Hills area.

Annexation into EID was requested in order to receive water service and fire hydrants for the proposed development. The applicant plans to utilize private septic systems for each lot and is not requesting wastewater service from EID. Annexation into EDH Fire is requested in order to obtain fire protection and emergency response services. The site is adjacent to the respective EID and EDH Fire service areas. The annexation into EDH Fire also makes a current service hole in the district's service area smaller. The subdivision was also conditioned by the Board of Supervisors to include annexation into both districts prior to filing the final map.

According to the project's facility improvement letter (FIL), an estimated total of 59 Equivalent Dwelling Units (EDUs) will be required to serve the Diamante Estates Subdivision, based on the landowner's request to utilize 1 ½ -inch meters for the residences. There is an existing water line easement which runs west and northwest to Salmon Falls Road. In order to provide the requisite fire flow to the site and receive regular domestic water service, it will be necessary for Diamante to build a new booster pump station near the tank site. The booster pump will provide domestic and fire flows for the majority of the Diamante lots; the remainder of the lots will be served by the gravity system. At the time of Commission consideration, EID had approximately 1,977 EDUs available for purchase in the EDH Supply Area through December 31, 2014.

EDH Fire reviewed the proposed Diamante Estates project information during the tentative map approval process and will require a Fire Safe Plan, minimum roadway widths, and 12 fire hydrants to ensure adequate fire protection infrastructure. In addition, several road and gate conditions were recommended during this process, which will be included in the final design of the subdivision. EDH Fire has indicated that adherence to the applicable building and fire codes, as well as the adopted conditions of approval would satisfactorily address all fire-related safety issues. The closest fire station to the project area is Station 84, located at 2180 Francisco Drive, approximately 2.1 miles from the project site. The project has an estimated response time from Station 84 of approximately six minutes.

El Dorado County, as the Lead Agency for the project, prepared and certified a Mitigated Negative Declaration (MND) for the project on October 27, 2009. The environmental impacts of the reorganization were addressed within the scope of this environmental document. The MND includes mitigation measures as necessary to lessen the potential significant effect that the project could have on the surrounding area.

Final Conditions of Approval

The Commission conditionally approved the Diamante Reorganization August 27, 2014, with a standard one-year deadline to complete all required conditions by August 27, 2015; the Commission granted a one-year extension in 2015, extending the deadline to August 27, 2016. The following conditions for this project remain outstanding:

- 1) *Authorization from the United States Bureau of Reclamation (USBR) to approve the inclusion request for the project area* – Because the project is within EID’s El Dorado Hills Service Area, USBR is required to verify that water resources are available from Folsom Lake for this project. For past annexation projects, USBR signoff has been known to take up to two years to receive. EID sent the inclusion request packet to USBR after the EID Board of Directors approved the annexation application in January 2016.
- 2) *Payment of State Board of Equalization (SBE) fees* – The SBE fees for this project are \$800; however, this payment has neither been received nor requested by LAFCO staff. The applicants cannot submit payment for these fees until after the other two conditions have been met because SBE will not accept checks issued more than 30 days prior to the filing. As a result, LAFCO staff will not ask for the payment of these fees until the project is ready to be filed.

After LAFCO

The Commission typically is open to the extension of the one-year deadline because the applicant is unable to meet the conditions of approval for reasons that are beyond its control. The USBR process is known notoriously for taking too long. But to get to the USBR process can take some time as well. After LAFCO approval, the proponent applies to the affected district(s) for annexation. In Diamante’s case, that district is EID. Should the project receive EID approval, EID staff prepares a packet of information to apply to USBR.

By November 2015, a little over a year after Commission approval, the applicant reported to LAFCO that the project wasn’t going to “pencil out” after EID completed its cost benefit analysis (CBA) in the design of the water system. Specifically, the CBA “doesn’t work with 19 lots and looped hook-ups.” The applicant’s representative said that the developer was looking to pursue twin strategies. First, it is to pursue the Diamante Project of 19 homes with a non-looped water system. That project was approved by the EID Board of Directors in January 2016. USBR is currently processing Diamante. This will assist with the LAFCO project. The applicant also applied and received an extension to its Diamante tentative map from the County Planning Commission. The tentative map is now valid to October 2022. The second strategy was to file a new project with the County, to be called The Vineyards (more on this shortly).

One thing that has not been satisfactorily explained to LAFCO staff is why there was a significant delay between the time of LAFCO approval (August 27, 2014) and the application to EID for annexation (late summer or fall, 2015). Certainly the applicant controls this aspect of meeting the condition of approval. It is perplexing why it took almost a year for the Diamante applicant to apply to EID, especially when other proponents of projects of comparable size and complexity do not take nearly as long to do so. In fact, many applicants apply to EID on the same week after Commission approval.

Why This Extension is not on Consent

At the March meeting, the Commission discussed its concerns about proposals changing in scope between the time the Commission approved a project and the time the Certificate of Completion is filed. While the probability of this type of scenario is low, it can happen.

In the case of Diamante Estates, it is *probable* that the ultimate development on this parcel will look different than what the Commission had considered. Given the discussion and comments that followed, staff felt it was appropriate to bring this action for public discussion rather than having the matter in consent.

Proposed Revised Project, “The Vineyards”

As stated earlier, the second strategy to dealing with the project “not penciling out” was to apply to the County to revise the project. In May 2016, the applicant applied for a tentative map revision to subdivide an existing parcel into 42 single family residential lots and five open space lots to be maintained by the homeowners association. The application also states that a component of the proposed development may include a small scale vineyard of approximately 25 acres total that will be planted within the open space lots and managed by the HOA or its contractor. This project will also have a looped water system.

County Planning Staff is processing the application and it is in the preliminary stages of review. The project has neither received any approvals so far, nor is there an indication at this stage that the project will receive any. In fact, as a result of the passage of Measure E on the June 7, 2016 ballot, County Planning has currently put all projects with a traffic analysis on hold pending direction from County Counsel and the Board of Supervisors. It is unknown at this stage how long it will be before any of these held projects start up again. Had Measure E not passed, The Vineyards would have been moving to the “technical advisory committee” phase, which is a precursor to starting the environmental review. Needless to say, The Vineyards project has not undergone a full CEQA review.

A Brief Comparison of Impacts to Water

The chart below contains a comparison of the impacts to water service if The Vineyards ultimately supersedes Diamante as the development of choice in the territory in question:

	Number of homes	EDUs	Agricultural Component (in EDUs)	Expected Total Water Use (in EDUs)
Diamante Estates	19	59	0	59
The Vineyards	42	44	6.4	50.4

Setting aside the increase in the *number* of homes and the small scale vineyard in the open space area, the domestic water use is projected to be roughly the same. This is because the applicant’s Diamante project proposed to utilize 1 1/2” meters. The proposed Vineyards project will utilize 3/4” meters instead. As a result, while there are more homes to provide service to in the Vineyards project, the meters are smaller. That causes the presumed water use to be significantly similar, according to EID’s analysis. The facility improvement letters for both Diamante and The Vineyards are enclosed as Attachments A and B, respectively, for the Commission’s convenience. Please note that The Vineyards’ FIL only contains the analysis for the home project. The calculations for the water use were received from the applicants’ representative and are included in this report as Attachment C.

The impacts to EDH Fire will double; however, not to the extent where the EDH Fire will have to build additional facilities or hire more crews. The District will have more responsibility, but this is offset by the higher concentration of homes and more properties that will generate more property taxes and development impact fees.

Legal Disclaimers

Staff and Counsel want to emphasize that the only question before the Commission is whether the time extension should be granted. The overall policy implications of whether EID's and EDH Fire's service boundaries should encompass Diamante Estates has already been considered and decided by the Commission. Diamante's CEQA review was accepted at the same time the Commission approved the Diamante project.

In addition, while the County is processing the tentative map change associated with The Vineyards project, it has not approved The Vineyards. There is no indication at this stage as to whether such an approval will occur. In other words, it is too speculative to deny the extension based on the presence of The Vineyards application to the County. The Commission has no say in the land use aspects of the development, and regardless of the overall ultimate development of the site, the overall reasons for applying to LAFCO remain the same: Annexation to EID and to EDH Fire.

However, a denial of the extension can be a reasonable conclusion if the Commission determines that the applicant failed to do their due diligence by applying to EID within a reasonable timeframe after gaining Commission approval. As noted earlier, the Commission is willing to grant extensions in the cases where compliance with a condition is difficult because of forces beyond the applicant's control. Applying for annexation to EID, which was entirely within the applicant's control, is a necessary precursor to start the USBR process. Had the Diamante applicant applied to EID within a reasonable timeframe after Commission approval, Diamante could have been months ahead in the USBR process.

If the Commission approves the extension, then the applicant has roughly 14 months to comply with the outstanding conditions of approval. These are delineated above. The project will only need to get USBR signoff and the applicant is only required to produce the SBE fees in order to be complete.

If the Commission denies the extension request and the above conditions are not completed by August 27, 2016, the reorganization will be terminated. The applicants would be eligible to reapply for reorganization one year after this date; however, the process would start from the beginning.

Attachments

Attachment A: EID Facility Improvement Letter for Diamante Estates

Attachment B: EID Facility Improvement Letter for The Vineyards

Attachment C: Agricultural Water Usage Calculations by the Applicant for a Vineyard