

# MINUTES

## RIO LINDA/ ELVERTA COMMUNITY PLANNING ADVISORY COUNCIL

Rio Linda Depot Visitors Center  
6730 Front street  
Rio Linda, CA 95673

Wednesday, August 23, 2017

7:00 PM

<http://www.per.saccounty.net/CPAC/Pages/CPAC-RioLinda-Elverta.aspx>

Applicant or appointed representative must be present for the item to be heard. If you are unable to attend, please contact the following:

**Rio Linda CPAC Chair** Zachary Arbios (916) 718-7304

**County of Sacramento, Office of Planning and Environmental Review representatives for Rio Linda/ Elverta Area**

**Principal Planner** Chris Pahule (916) 874-4447

[pahulec@saccounty.net](mailto:pahulec@saccounty.net)

**Associate Planner** Julie Newton (916) 876-8502

[newtonju@saccounty.net](mailto:newtonju@saccounty.net)

To contact the Office of Planning and Environmental Review CPAC Secretary, please call (916) 874-5397.

To receive notifications or obtain more information regarding:

**Sacramento County public meetings:** <https://public.govdelivery.com/accounts/CASACRAM/subscriber/new>

**Current Planning projects,** visit the Planning Projects Viewer website at <https://planningdocuments.saccounty.net/>

To submit project comments to CPAC members, email them to [CPAC-RioLinda-Elverta@saccounty.net](mailto:CPAC-RioLinda-Elverta@saccounty.net). Please identify the relevant project using the project name, control number or address.

**OFFICERS:** ✓ Zachary Arbios  
✓ Roy Hickey  
Susie Macdonald  
*absent*

Chair  
Vice-Chair  
Secretary

**MEMBERS:** ✓ Michael Huiras

Hal Morris  
*absent*  
Julie Newton

**COUNTY PLANNING REPRESENTATIVES:** Chris Pahule

Roy motion  
approval of minutes  
Mike 2nd, it  
approved

EXA – Excused Absence	U - Unexcused Absence	P – Present
<b>QUORUM DETERMINATION:</b>	Yes	No
<b>COUNTY PLANNING REPRESENTATIVE:</b>	Yes	No

Matters under the jurisdiction of the CPAC that are not posted on the agenda may be addressed by the general public following completion of the regular agenda. The CPAC may limit the length of any off-agenda testimony.

### CALL MEETING TO ORDER:

- Call meeting to order
- Introduction of members, staff, and County representatives
- Explanation of the Role of the Council
- Council to consider approval of the July 26, 2017 minutes.



# PLANNING ITEMS FOR REVIEW:

1.

Entitlement(s): SDP, DRS, SPP

Control No.: PLNP2015-00150 ELVERTA 25

APN: 202-0080-019/020/058

Applicant: Tony Gallas, Inc.

Owner: NPA, LLC, A California Liability and ESP 20, LLC, A California Liability Company

Location: The project is located at the northeast corner of the intersection of Palladay Road and Elverta Road, approximately 1 mile east of Rio Linda Boulevard in the Rio Linda community.

- Request:
1. A Tentative Subdivision Map for 125 lots on approximately 25 acres in the Elverta Specific Plan area. The project will include 117 RD-7 (Residential) zoned lots, seven landscape corridor lots, and one open space lot.
  2. A Special Development Permit to allow an alternative Urban Neighborhood Street Standard with an attached sidewalk (Detail 2-1).
  3. A Design Review to comply with Single Family development standards.

Final Hearing Body: Planning Commission

Investigating Member:

Lead Planner: George Dellwo, Project Manager, (916) 875-3711, [dellwo@sacounty.net](mailto:dellwo@sacounty.net)

[Click here for more information](#)

## COUNCIL RECOMMENDATION:

TIME:

Motion by:			Seconded by:		
Vote	Yes	No	Abstain	Absent	

Action:

**Note: This CPAC has the right to file an appeal with the County of Sacramento when the committee, commission or official takes an action or determination that conflicts with community-wide policies as understood by the respective CPAC and its constituency. During the Appeal hearing, the applicant or appointed representative must be present.**

Motion by:			Seconded by:		
Vote:	Yes:	No:	Abstain:	Absent:	

Comments:



OTHER BUSINESS:

Roper  
Brett ~~Rohrer~~ - lighting street - light noise

PUBLIC COMMENT:

John Turner Jr.  
Drainage concerns -  
Flooding concerns

Tony Ballas - appreciates  
Applicant all the  
community's  
input

Steven Mathews  
How will this effect well use of current homeowners

Michael Lunn  
Solid wall  
drainage - wants to make sure water flow isn't changed  
for wildlife & his fruit trees.

ADJOURNMENT:

Charlea Moore - exception - maintain sidewalk & curb - no change  
Horse trails? no trails / roads piece meat roads done first, no sewer at  
existing time

The meeting facility is accessible to persons with disabilities. Requests for interpreting services, assistive listening devices, or other considerations should be made through the County of Sacramento, Office of Planning and Environmental Review at (916) 874-5397, no later than five working days prior to the meeting. California Relay Service (CRS) is a third party interpretation service for deaf, hard-of-hearing, and/or speech-impaired persons. CRS can be reached by dialing 711 or 1-800-735-2929



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Dial 916-875-4311



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Susie Shields Macdonald Secretary

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### CALL MEETING TO ORDER:

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- Council to consider approval of the June 28, 2017 minutes

— approved 5/5



**Newton, Julie**

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**Subject:**

FW: Elverta 25 Project, Control Number PLNP2015-00150 Comments

**From:** [helmsbj2@aol.com](mailto:helmsbj2@aol.com) [<mailto:helmsbj2@aol.com>]

**Sent:** Tuesday, August 22, 2017 5:19 PM

**To:**

[dellwog@saccounty.net](mailto:dellwog@saccounty.net)

**Cc:** Frost, Supervisor; Moffitt, Leighann

**Subject:** Elverta 25 Project, Control Number PLNP2015-00150 Comments

To: George Dellwo, Project Manager

CC: Supervisor Sue Frost, 4<sup>th</sup> District

CC: Leighann Moffitt

From: Robert & Billie Helms

8210 Palladay Road

Elverta, CA 95626

Subject: Comments related to 23 Aug 2017 CPAC Hearing regarding  
Control Number PLNP2015-00150, Project Name: Elverta 25,  
APN's: 202-0080-019/020/058

22 August 2017

We live next to this project and are unable to attend this Hearing. However, we have reviewed the proposed Tentative Map and would like to express some comments and concerns we have related to this Project. We own parcel numbers 202-0080-057/059.

1. We request CPAC and the County Planning Staff to require the developer to install/construct a barrier or fence to separate parcels 202-0080-058 (part of their Project) and 059, and that this construction be a condition of approval and issuance of any building permits. On the Tentative Map, this area is identified as Lot H for their drainage corridor. Aside from the general trespassing issues, we have concerns that the "borrow pit/pond" that is on our property (parcel 059) and is north of this development will become more of an "attraction" than it is currently. We already have many people trespassing on our property, horse riders, and people coming in to "just to look around," and "hunters" (yes, shooting guns, behind our house as well as by the pond) especially during dove, pheasant and turkey season. In fact, we had turkey shooters in our backyard this spring. (The Fish and Game Officer gave them a citation.) We have even been the beneficiary of having a stolen car dumped in our pond. For whatever reason people think this is open land (even though it is fenced) and the pond is a nice place to fish when it has water in it. Strangers think our property is open to anyone who wants to walk down our driveway (if the gate happens to be open) or they just walk across the fields (through the fences) on to it. Without a significant deterrent between these two parcels, such as a fence or barrier of some type, this trespassing activity will surely increase.

2. It is usually a standard practice for a developer to provide fencing for the homes in their projects. We request the entire fence line between the eastside of our property (parcel 057) that adjoins the developer's property (parcel 058) be completed at the same time and not in a piecemeal fashion. This prospective fence will run north and south.

3. We would like to remind the CPAC members and County Planners that during the CPAC Review, as well as the formal County Board of Supervisors hearing and subsequent approval of the "Elverta Specific Plan (Drainage Plan) Minor Amendment," the Owners Group included a proposal to fairly compensate those property owners who lost units due to the ESP (Drainage Plan) Minor Amendment. Their offer, found in the "Elverta Specific Plan Minor Amendment" proposal dated March 27, 2013, Land Use Plan section (page 3), prepared by the Elverta Specific Plan Property Owners Group c/o RCH Group states:



**"It is proposed as part of this amendment that a fee be paid upon approval of a tentative map by builders into an equalization fund to compensate those parcels that have lost dwelling units. That amount of the fee and the framework for the conveyance of funds will be determined at a later date."**

This paragraph was included in the Community Planning Advisory Council presentation and documentation as well as presented by the Owners Group representative to the Board of Supervisors during the Public Hearing on this proposed Amendment. Regarding the development of this Compensation Fund and Disbursement Plan, I have been in correspondence with Sacramento County Principle Planner Leighann Moffitt since this Amendment was approved. Her most recent response/correspondence (earlier this year) was she has not seen one from the Owners Group and this "Compensation Fund and Disbursement Plan" was a condition placed by their group and therefore it is up to them to create it. Once this "Equalization Plan/Compensation Fund and Disbursement Plan" is developed and implemented, it will impact several parcels and property owners within the Elverta Specific Plan including ourselves. We believe the CPAC and the Board of Supervisors approved this "Minor Amendment" with the good faith belief that the Owners Group would develop the proposed and now approved, Equalization Plan/Compensation Fund and Disbursement Plan. Therefore, we are asking you to hold the ESP Owner's Group accountable and require this Compensation Fund and Disbursement Plan to be in place prior to any permit issuing and ground breaking activity. We request you condition your approval of the Elverta 25 Project (and all other ESP Projects) with the creation and implementation of this Equalization Plan/Compensation Fund and Disbursement Plan.

4. As we understand it, the *2013 ESP (Drainage Plan) Minor Amendment* was primarily driven by the Army Corp of Engineers. We have been told and have been led to believe the drainage expansion onto parcels 202-0080-056/057/058 and 059 was primarily due to the Army Corp of Engineers' erroneous determination that our county approved engineered seasonal drainage ditch on parcel 202-0080-059 was a "Navigable Waterway." In light of further clarification and the recent *Feb. 28, 2017 Executive Order*, we request you consider recommending reduction of this particular expanded drainage area that impacts these parcels and allow this developer to build to their northern property line, following the originally approved Elverta Specific Plan.

These particular properties are not in the floodplain and never have been. Although the Army Corp of Engineers through the years has liberally expanded their own authority, the bottom line has been made very clear with the Feb. 28, 2017 Executive Order; the Army Corp of Engineers has no authority or jurisdiction with regard to seasonal ponds, streams and waterways such as those in the Elverta Specific Plan. Therefore, is there any reason why we cannot modify the current grossly expanded drainage plan or in fact, return to the original plan that was previously approved by the Board of Supervisors? That is, unless there is another reason why lots were taken and transferred elsewhere in this project and that's another whole issue. (We hope there will be a mechanism put in place to keep this Elverta Specific Plan drainage system from becoming an eyesore and weed patch like we currently see in many of the Natomas planned drainage areas.) We support returning to the ESP Development Plan that was created with great effort and in conjunction with the residents of Rio Linda and Elverta - pre-2013 ESP (Drainage Plan) Minor Amendment.

Supporting documentation for #4:

\* One of the major responsibilities of the Corps of Engineers is administering the wetlands permitting program under Section 404 of the Federal Water Pollution Control Act of 1972. (also known as "The Clean Water Act"). This Act authorized the Secretary of the Army to issue permits for the discharge of dredged and fill material.

Section 10 of the Rivers and Harbors Act of 1899 (codified in Chapter 33, Section 403 of the United States Code) gave the Corps authority over navigable waters of the United States. As navigable waters are defined as "navigable waters of the United States are those waters that are subject to the ebb and flow of the tide and/or are presently being used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce", the Corps has broad authority to enforce this, including licensing of bridges over navigable waters, and the maintenance of pierhead and bulkhead lines.

The US Supreme Court has addressed environmental regulation by the Corps of Engineers three times in the last two decades. In 1985, the Supreme Court ruled 9-0 that the Clean Water Act extended to wetlands adjacent to open waters.



They left open the question about wetlands not adjacent to Federal waters (United States v. Riverside Bayview Homes, Inc., 474 U.S. 121 (1985)) (see Bayview Homes in Regulatory takings). In 2001, the Court further decided 5–4 that the CWA does not cover areas that had filled with water (Solid Waste Agency of Northern Cook Cty. v. Army Corps of Engineers, 531 U.S. 159 (2001)). The Corps of Engineers had claimed authority over the site [wetlands not adjacent to Federal waters] by saying that migratory birds used the pond as habitat but were overruled by the Supreme Court because they were claiming powers not granted by Congress by attempting to extend its jurisdiction to ponds with no connection to navigable waters.

**\*\* Executive Order - Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the "Waters of the United States" Rule** Signed into law Feb. 28, 2017

The new executive order that President Trump is expected to sign today directs that EPA to reopen the rulemaking process to repeal and revise the WOTUS rules. The agency [EPA] is explicitly told to use the standards set out in former Supreme Court Justice Antonin Scalia's plurality opinion in the 2006 Rapanos vs. United States case. In his opinion, Scalia declared:

In sum, on its only plausible interpretation, the phrase "the waters of the United States" includes only those relatively permanent, standing or continuously flowing bodies of water "forming geographic features" that are described in ordinary parlance as "streams[,] ... oceans, rivers, [and] lakes." See Webster's Second 2882. The phrase does not include channels through which water flows intermittently or ephemerally, or channels that periodically provide drainage for rainfall. The Corps' expansive interpretation of the "the waters of the United States" is thus not "based on a permissible construction of the statute."

\* [https://en.wikipedia.org/wiki/U.S.\\_Army\\_Corps\\_of\\_Engineers\\_civil\\_works\\_controversies](https://en.wikipedia.org/wiki/U.S._Army_Corps_of_Engineers_civil_works_controversies)

\*\* <https://www.nrdc.org/experts/jon-devine/president-trump-attacks-clean-water>

Thank you,

Robert A. Helms Jr.

Billie J. Helms

