



## Project History

The application, CUP24-0011, was submitted to the County for review on September 9, 2024. The proposed project was reviewed by the Agricultural Commission (AG) on June 11, 2025, and heard by the Planning Commission (PC) on September 25, 2025.

The PC report documentation, and written comments are available here: [County of El Dorado - File #: 25-1569](#) and the record of the public hearing is available here: [https://eldorado.granicus.com/player/clip/2489?view\\_id=2&redirect=true](https://eldorado.granicus.com/player/clip/2489?view_id=2&redirect=true). These are part of the record on appeal (Legistar Attachments C – L).

The AG report documentation, and written comments are available here: [County of El Dorado – File #: 25-0907](#) and the record of the public hearing is available here: <https://eldorado.legistar.com/MeetingDetail.aspx?ID=1311441&GUID=CEE3005F-BE31-40F8-A308-2DD873A61A60&Options=info&Search=kuhl#>. These are part of the record on appeal (Legistar Attachment H).

## Appeal Filed

On October 3, 2025, appeal CUP-A25-0002 (Attachment A) was submitted in a timely manner by Nathaniel Willson, the project agent on behalf of the applicant, Michael Kuhl. As stated in the appeal, the appellant is specifically appealing the PC's focused consideration about the ability of a house to be placed on timber preserve land and how a house would be inconsistent with the harvesting of timber. The Appellant believes that matter was settled as a possibility because the CUP process allows residential housing on TPZ land with a CUP. The appellant requested that the appeal process be delayed beyond the 60-day time limitation described in County code 130.52.090 (C) – Appeals. Because the appellant is also the original applicant, this request was granted.

Following are the appellant's list of seven (7) considerations that the appellant included with their Appeal Form (Attachment A):

1. The proposed house being placed in a location that is tree free and is not growing much if any harvestable timber. The house is being constructed into unsuitable fill with no trees growing.

*Staff Response:* Timber harvest suitability specifically at the proposed house location was not a pivotal discussion point for the AG or the PC, although aerial maps and expert reports were presented to both Commissions, and an AG site visit was conducted as part of the project review.

At the AG meeting on June 11, 2025, Commissioners made a two-phase motion:

- (I) To recommend denial due to the findings for General Plan Policy 8.4.2.1 (A) that the proposed use would be detrimental to the parcel or to adjacent parcels for the long-term forest resource production value or conflict with forest resource production in the general area; and

- (II) To support the finding for Zoning Ordinance 130.40.350 TPZ (G)(1) that the proposed use is compatible with and will not detract from the land's ability to produce timber.

The PC rationale for their decision was based on consideration of project information that included the recommendation from the AG. Below are Findings of denial as determined by the PC ([Legistar item #25-1569](#)):

- The proposed use would be detrimental to that parcel or to adjacent parcels for long-term forest resource production value or conflict with forest resource production in that general area (General Plan Finding); and
  - The proposed use is not compatible with and will detract from the land's ability to harvest timber (Zoning Finding); and
  - The proposed use would be detrimental to the public welfare and injurious to the neighborhood, due to fire protection and public safety concerns that have not been adequately met, including the ability to provide adequate public access, emergency ingress and egress, and sufficient water supply (Conditional Use Finding).
2. The footprint of the house being 5,544 square feet and the septic area being 9,544 square feet and the pad being 5,242 square feet. The solar array is located in the meadow where no trees have historically grown for the maximum sun exposure. This represents 0.47 acres of area that on the aerial view could be said to be inside the "treed" area being only 1% of the 45.58 acres of APN 011-030-058 and 0.7% of the entire property (65.78 acres).

*Staff Response:* The proposed site plan was included with application materials provided to both the AG and PC, along with aerial maps. PC Findings do not appear to be predicated solely on ratios of the project site for the proposed use.

3. Appellant believes that the commission relied upon mischaracterizations made by LeeAnne Mila (Agricultural Commissioner) regarding the inconsistent findings of the AG stating that there is a difference between harvesting and growing timber.

*Staff Response:* Both the General Plan (8.4.2.1) and Zoning (130.40.350 TPZ (G)(1)) are focused on the production of timber, which is inclusive of growing and harvesting timber.

At the Agricultural Commission meeting on June 11, 2025, the County Agricultural Commissioner, LeeAnne Mila, presented the AG with a staff report and presentation that included discussion of the site visit conducted February 21, 2025, with fellow Agricultural Commissioner and Registered Professional Forester, Bill Draper.

The PC considered AG's recommendation, and their decision specifically mentioned that the proposed use would conflict with the harvesting of timber.

4. Appellant believes that the Planning Commission failed to properly consider that there is plenty of space around the structures for modern timber operations. In any case even if timber harvests were affected on the property, the effect will naturally be minimal as it is such a small portion of the property.

*Staff Response:* The PC Findings' rationale for their decision was based on consideration of the full set of project information, which included the AG recommendation. Two of the three PC Findings conclude that the use is not compatible with and will detract from the land's ability to harvest timber; and that the proposed use would be detrimental to that parcel or to adjacent parcels for long-term forest resource production value or conflict with forest resource production in that general area. These two Findings are based on both the zoning regulations and the General Plan.

5. Appellant believes that the Planning Commission failed to take into account Government Code 51104 (h) "Compatible use" is any use which does not significantly detract from the use of the property for, or inhibit, growing and harvesting timber...". Here there is no way to find significant impact to the growing or harvesting of timber. The house is located in an area that requires no removal of trees, is less than a percent of the entire area of the property in use for timber harvest, is correcting a timber harvest error in creating an unsuitable fill/landing area and replacing it with a suitable, compacted landing area for staging, will not hamper harvest from neighboring property as it is located 200 feet from all property boundaries, will not hamper growth activities on the property by occupying an area with minimal tree growth, and will not hamper modern harvesting activities as there is plenty of space for harvesting to occur even around the structures should a tree be nearby. In either case NONE of the impacts can be said to rise to the level of significant and are all accounted for in the project location and modern practices.

*Staff Response:* The County has adopted a compatible use list, as authorized under state law. A residence in a TPZ zone would be considered compatible if the CUP findings could be made. The PC could not make findings for CUP approval.

6. The Planning Commission improperly found that the project was inconsistent with General Plan Policy 8.4.2.1 (a). Registered professional forester Fred Buhlert provided an opinion that the proposed project will not detract from the lands ability to produce timber. Furthermore, for all of the reasons listed above there is very minimal impact on the timber production of the property.

*Staff Response:* The applicant provided a letter to the AG from Registered Professional Forester, Fred Buhlert, stating that the project complies with General Plan Policy 8.4.2.1.(A). The AG considered the letter; however, the AG recommended denial because it is inconsistent with General Plan Policy 8.4.2.1 (A). Specifically, the AG stated that the proposed use would be detrimental to the parcel or to adjacent parcels for the long-term forest resource production value or conflict with forest resource production in the general area. The PC decision was based on consideration of project information, and the AG recommendation, which included the Buhlert letter (Attachment F, Exhibit L).

7. The Planning Commission improperly found that the project was inconsistent with zoning ordinance 130.40.350(g)(1). For all of the reasons listed above timber harvest and production will not be impaired in any significant manner.

*Staff Response:* As determined by the PC, the proposed use could not meet the Zoning Finding required to support residential, recreational, and non-timber uses (130.40.350(G)(1)), because “The proposed use is not compatible with and will detract from the land’s ability to harvest timber.”

**Alternative Action Notes**

If the appeal were to be approved, Conditions of Approval would apply to development of the proposed single-unit residential dwelling and would be reviewed at time of grading and building permit submittal and the project would be subject to local and state requirements, as applicable.