

**COUNTY OF EL DORADO  
PLANNING AND BUILDING DEPARTMENT  
PLANNING COMMISSION  
STAFF REPORT**



**Agenda of:** December 10, 2020

**Staff:** Tom Purciel

**CONDITIONAL USE PERMIT/PLANNED DEVELOPMENT**

**FILE NUMBER:** CUP19-0013/PD19-0006/Better Place Forest

**PROPERTY OWNERS:** Cecil Westel and Judy Amico

**APPLICANT:** Better Place Forests/Scott Roycroft

**REQUEST:** A Conditional Use Permit and Planned Development for a 48-acre memorial conservation forest and scattering grounds with associated site improvements including a 250-foot paved access driveway, 16 parking spaces, a 711 square foot visitor center, a 571 square foot accessory structure and walking trails.

**LOCATION:** On the east side of Blair Road, approximately 4,700 feet north of the intersection with Pony Express Trail, in the Pollock Pines area, Supervisorial District 5. (Exhibits A, B & C)

**APNs:** 101-240-045, 101-220-002, and 101-220-003 (Exhibit D)

**ACREAGE:** 48.0 acres

**GENERAL PLAN:** Medium Density Residential (MDR) (Exhibit E)

**ZONING:** Residential, One Acre - Planned Development (R1A-PD) (Exhibit F)

**ENVIRONMENTAL DOCUMENT:** Categorically Exempt Pursuant to Sections 15303 (New Construction or Conversion of Small Structures) and 15304 (Minor Alterations to Land) of the California Environmental Quality Act (CEQA) Guidelines

**RECOMMENDATION:** Staff recommending the Planning Commission take the following actions:

1. Find the project Exempt from CEQA pursuant to Sections 15303 and 15304 of the CEQA Guidelines (New Construction or Conversion of Small Structures, Minor Alterations to Land);
2. Approve Conditional Use Permit CUP19-0013 for the proposed memorial conservation forest and scattering grounds based on the Findings and subject to the Conditions of Approval as presented; and,
3. Approve Planned Development PD19-0006 establishing an official development plan for the proposed memorial conservation forest and scattering grounds based on the Findings and subject to the Conditions of Approval as presented.

## **EXECUTIVE SUMMARY**

Approval of Conditional Use Permit and Planned Development CUP19-0013/PD19-0006 would allow a 48-acre memorial conservation forest and scattering grounds with associated minor site improvements including a 250-foot paved access driveway, 16 visitor and employee parking spaces, a 711 square foot visitor center, a 571 square foot storage building, landscaping and improved walking trails. (Refer to the project site plan, Exhibit G). The operation would be open by appointment only for visitation and spreading ceremonies from 9:00 am to 6:00 pm daily. There would be up to six employees, with 1-2 employees on site during a typical business day. Spreading ceremonies would be limited to immediate family members and group sizes would be limited to a maximum of 30 persons at one time. Public water service would be provided by the El Dorado Irrigation District (EID) via an extension to an existing water main, and liquid waste disposal would be provided by an on-site septic system. Electricity would be provided via extension to existing Pacific Gas and Electric (PG&E) facilities on adjacent parcels. No oak trees will be removed or impacted by the project. The project also includes ongoing forest management to reduce the risk of wildfire and promote forest health. The project will be consistent with all applicable Zoning regulations and General Plan policies.

## **OTHER PROJECT CONSIDERATIONS**

### **Background on Memorial Forests/Scattering Grounds:**

Better Place Forests (BPF) is a nationwide company founded in 2015 to provide patrons with a sustainable, and cost-effective alternative to traditional burial options. Through the purchase of a tree dedication in one of their forests, customers are granted the exclusive right to place their ashes, or those of their family, around a private memorial tree. By doing so, customers are able to leave a legacy and also support long-term forest conservation efforts. To achieve this mission, BPF acquires sufficient-sized forest properties within communities and permanently protects those forests, open spaces, and wildlife habitats. BPF seeks to place conservation easements on all BPF properties, working with local land trusts to ensure that their memorial forests will be protected in perpetuity. During memorial ceremonies, ashes are mixed with native soil and

spread under a designated memorial tree. A 3 or 4-inch United States Geological Survey (USGS)-style marker is placed at the foot of each memorial tree (Exhibit H). Nothing is interred into the ground and no memorials would be placed on the trees themselves. In order to facilitate site access and enhance the experience for both customers and authorized visitors to the memorial forest, only minor site improvements, including a small visitor center, parking and improved trails are completed. An example photograph of a typical BPF visitor center is included as Exhibit I, taken from the existing BPF memorial forest at Point Arena, California.

### **State and County Regulations Regarding Spreading of Cremated Remains**

While most similar to a “cemetery” use, the proposed memorial forest and scattering grounds is not considered a “cemetery” under either state or County regulations and would not be regulated as such. A discussion of relevant state and County regulations follows below.

#### **State Regulations regarding Cemeteries:**

In the State of California, the spreading of cremated remains is not considered as a “cemetery” use. This is outlined in the California Health and Safety Code Section 7116, which states the following (underline added for emphasis):

*§ 7116. Cremated remains may be scattered in areas where no local prohibition exists, provided that the cremated remains are not distinguishable to the public, are not in a container, and that the person who has control over disposition of the cremated remains has obtained written permission of the property owner or governing agency to scatter on the property. A state or local agency may adopt an ordinance, regulation, or policy, as appropriate, authorizing, consistent with this section, or specifically prohibiting, the scattering of cremated human remains on lands under the agency’s jurisdiction. The scattering of the cremated remains of more than one person in one location pursuant to this section shall not create a cemetery pursuant to Section 7003 or any other provision of law.*

As the applicant is proposing surface spreading of ashes mixed with local soil, the applicant confirmed with the California Cemetery and Funeral Bureau that BPF operations would not be regulated as a cemetery in the state of California. As part of the application, the applicant included a separate memo prepared by a Certified Professional Forester at North Coast Resource Management Incorporated (Exhibit J) that describes the methodology that would be used by BPF in order to comply with this statute and avoid any adverse environmental impacts.

#### **County Regulations Regarding Cemeteries**

Similar to state regulations, County regulations, including Chapter 8.20 of Title 8 (Public Health and Safety – Cemetery Regulations) do not consider the spreading of remains a “cemetery”. , Section 8.20.020 (Definitions) defines “cemetery” as follows: *Cemetery means any one, or combination of more than one of the following, in a place used or intended to be used and dedicated for cemetery purposes, and in which six or more human bodies are buried:*

1. *A burial park for earth internments.*
2. *A mausoleum for crypt or vault interments.*
3. *A crematory and columbarium for cremated remains.*

In October, 2020, the County Cemeteries Division reviewed detailed project plans and the above-referenced ordinance and also forwarded project plans to County Counsel for further review. Based on their staff's review and a subsequent teleconference with County Counsel, Cemeteries Unit staff determined the proposed memorial forest and scattering grounds would not constitute the formation of a cemetery, nor expand an existing cemetery, and therefore would not require approval of a permit by the Board of Supervisors pursuant to Section 8.20.110.A (Permit to Establish or Expand Cemetery) of the El Dorado County Cemetery Ordinance (Refer to Cemeteries Division Comment Letter, Exhibit Q).

Zoning Ordinance Regulations: The project parcels are zoned One-Acre Residential (R1A) with a (-PD) (Planned Development) overlay. This application is being submitted under the use category "cemetery", which is a use conditionally permitted in R1A zones as shown on Table 130.24.020 (Residential Zone Use Matrix). A Planned Development Permit is also being requested to establish an official Development Plan for the proposed use consistent with the (-PD) overlay. Although the State of California does not consider the proposed use as a cemetery, as discussed above, Zoning Ordinance Section 130.20.030(A)(3) (Similar and Compatible Uses Allowed) allows for the proposed use because it is similar in character and would not involve a greater intensity than the listed cemetery use. Further, the proposed use would be consistent with the purposes of the applicable zone, be consistent with the General Plan and also be compatible with other uses allowed in the zone. For additional details, please refer to the Staff Analysis and Findings sections below.

## **ENVIRONMENTAL SETTING/EXISTING CONDITIONS**

**Environmental Setting:** The project parcels are located on the east side of Blair Road, a County-maintained roadway approximately 4,700 feet north of the intersection with Pony Express Trail, in the Pollock Pines area. Access to the site is via an existing gated private driveway on the east side of Blair Road (Exhibit B). The site elevation is approximately 3,700 feet above sea level and the project parcels slope gently toward the northeast. The project parcels are currently undeveloped and heavily forested with a combination of Sierran mixed conifer forest (approximately 46.3 acres) and montane riparian woodland (approximately 1.0 acres). Aquatic resources in the project area include one intermittent stream (approximately 0.5 acres), riparian wetlands (approximately 1.0 acres) and the EID Main Canal (approximately 0.6 acres) as shown on the project aerial photo, site plan and existing site photographs (Exhibits C and G). The proposed visitor center, parking and associated improvements would be located in an existing forest clearing near the northwest project boundary, approximately 300 feet from Blair Road (For details, please refer to existing site photographs, Exhibit K). No oak trees would be removed or impacted by the project.

The project parcels are surrounded by residentially-zoned lands (Refer to the Zoning Map, Exhibit F). However, due to the large size of the project parcels, there are no existing residences within close proximity to the proposed visitor center and parking area and the nearest residences

are located more than 350 feet to the northwest of the proposed structures. (Refer to the site aerial photo, Exhibit C).

### **PROJECT DESCRIPTION:**

Conditional Use Permit CUP19-0013 would establish a memorial conservation forest and scattering grounds as an allowed use on the project parcels. Planned Development Permit PD19-0006 would establish a Development Plan for the development and operation of the facility including a 48-acre memorial conservation forest and associated minor site improvements on a 1.48 acre portion of the site. Proposed improvements include a 250-foot paved, gated access driveway, an operation center consisting of 16 visitor and employee parking spaces, a 711 square foot visitor center and employee office with ADA-compliant restrooms, a 571 square foot storage/maintenance building, water-conserving landscaping around the proposed structures, driveway and parking (Exhibit L) and a network of improved walking trails to memorial sites as shown on the site plan (Exhibit G). Grading and earth movement would be limited to minor cuts and fills associated with access, parking and building pads for the visitor center site with total cuts and fills limited to approximately 460 cubic yards (cy) (Exhibit P). The project would also include limited usage of staff-operated all-terrain vehicles on existing unpaved access roads, as shown on the project site plan, for purposes of forest maintenance and for providing visitors with limited mobility access to locations within the memorial forest. The facility would operate by appointment only for visitation and spreading ceremonies from 9:00 am to 6:00 pm daily. There would be up to six employees, with 1-2 employees on site during a typical business day. Spreading ceremonies would be limited to immediate family members and group sizes would be limited to a maximum of 30 persons at one time. All cremated remains (cremains) would be mixed with local soil at a ratio determined by a registered professional forester (approximately 3:1 soil to ashes by volume) to ensure cremains are not visually distinguishable in the mixture and to ensure there would be no adverse environmental impacts. Spreading of cremains would be limited to areas shown on the site plan (Exhibit G) and be located outside riparian or wetland areas as further described in the attached BPF Cremains Memo (Exhibit J). Public water service would be provided by the El Dorado Irrigation District (EID) via an extension to an existing six-inch water main near the west project boundary under Blair Road, a County-maintained roadway (Exhibit S) and liquid waste disposal would be provided by an on-site septic system. Electricity would be provided from existing PG&E facilities along the west project boundary at Blair Road. No oak trees will be removed or impacted by the project.

The project also includes ongoing forest management to reduce the risk of wildfire and promote forest health. All forest management would be directed by an accredited arborist or forester. Forest management would include selective thinning, ground fuel reduction, and non-native species eradication and would be conducted in phases across the 48-acre site as part of a long term management plan.

### **STAFF ANALYSIS:**

**General Plan Consistency:** The project is consistent with all applicable General Plan policies including: Policy 2.2.1.2 (Medium Density Residential Land Use Designation), Policy 2.2.5.2 (General Plan Consistency), Policy 2.2.5.21 (compatibility with adjoining land uses), Policies

TC-Xa through TC-Xi (Transportation and Circulation Element), Policy 5.1.2.1 (adequacy of public services and utilities), Policy 5.2.1.2 (adequate quantity and quality of water for all uses, including fire protection) and Policy 6.2.3.1 (adequate fire protection). Further analysis of each policy is discussed in the Findings section below.

**Zoning Ordinance Consistency:** Staff has determined that the project is consistent with applicable regulations and requirements of the Zoning Ordinance (Title 130 of the County Ordinance Code). The project is consistent with allowed uses in the One-acre Residential (R1A) zone district (Chapter 130.24.020), including required findings for similar and compatible uses (Section 130.20.030(A)(3)(a)). In addition, the project would conform to the required development standards for the R1A zone district (Chapter 130.24.030) as shown below. The project also conforms to other applicable zoning regulations including landscaping standards (Chapter 130.33), outdoor lighting standards (Chapter 130.34) and off-street parking and loading standards (Chapter 130.35). In addition, the project also conforms to the requirements for Development Plan Permits (Chapter 130.52.040) and Conditional Use Permits (Chapter 130.52.021). For additional details, please refer to the discussion in Sections 3.0, 4.0 and 5.0 of the Findings.

**Applicable Development Standards from Table 130.24.030  
 (Residential Zones Development Standards)**

<b>Development Attribute</b>	<b>R1A Zone District</b>	<b>APN 101-240-045</b>	<b>APN 101-220-002</b>	<b>APN 101-220-003</b>
Residential Density Range	1 primary plus 2 <sup>nd</sup> dwelling unit per lot	N/A	N/A	N/A
Setbacks (in feet): Front	30	Approx. 390	-	-
Secondary Front	25	Approx. 500	-	-
Side	15	Approx. 500	-	-
Rear	30	Approx. 450	-	-
Maximum Height (in feet):	45	Approx. 14	-	-

(-) **No Structures Proposed**

**Public and Agency Comments:** The project was distributed to all applicable public agencies and organizations for review and comment including the County Department of Transportation (DOT), the County Environmental Management Department (EMD), the El Dorado County Air Quality Management District (AQMD) the El Dorado County Fire Protection District (Fire District), the El Dorado Irrigation District (EID) and PG&E. Of these agencies and organizations notified of the project, project-specific comments were received from DOT, EMD, AQMD, EID and the Fire District. None of these agencies had any significant issues or concerns regarding the project and recommended standard conditions of approval to ensure the project will comply with their respective regulations. To date, no public comments have been submitted

for the project.

**Public Outreach:**

County Staff: No formal public outreach was conducted by the County, and a public outreach plan was not required for this project pursuant to the County Zoning Ordinance. However, a physical notice of proposed development was posted on the site and placed in a location visible to the public pursuant to Section 130.51.040 (Public Notice Requirements and Procedures). In addition, the project was duly noticed for a Planning Commission public hearing with a public notification range of 1,000 feet and legal advertisement was published in applicable local newspapers. In addition, project notification was also sent to the County's Planning Commission email subscription list and posted on the Planning Services Planning Commission webpage.

Applicant: While not required as part of the County process, the applicant conducted his own public outreach and held a meeting with adjacent property owners on September 13, 2019. Adjacent property owners were notified of this meeting via U.S. mail and a total of 25 neighbors attended. At the meeting, BPF representatives presented detailed project information, including informational poster boards providing details about the proposed project. Information presented at the September 13 meeting, including a visitor sign-in sheet, is attached as Exhibit T. At the meeting, BPF staff responded to neighbor questions and concerns, including concerns about potential impacts to forest health, traffic, adjacent residences and neighbor access to forest lands on the project site. As a result of this meeting, the applicant modified preliminary plans, addressing neighbor concerns, prior to project submittal. The project includes the following features to address neighbor concerns:

1. The applicant has incorporated ongoing forest management into the project to maintain forest health and minimize fire risk;
2. Traffic to the property will be limited, as visitation rates will be low and visitation will be strictly on an appointment-only basis. Access to the visitor facility will be limited to a single gated driveway as shown on project plans, which will be locked during non-business hours;
3. Development on the site will be set back several hundred feet from the nearest residences, ensuring the proposed visitor facilities will not be visible from adjacent residences;
4. The applicant has committed to allowing neighbors continuing access to the project site in order to access walking trails and the EID canal.

**Conditions of Approval:** The project was distributed to six applicable agencies and organizations for review and comment. Of those agencies and organizations, only five (DOT EMD, EID, AQMD and the Fire District) submitted project-specific comments, however, none of these agencies expressed significant issues or concerns regarding the project. Each of these agencies recommended standard conditions of approval which have been incorporated into the project as DOT Condition No. 4 (encroachment permit requirements), EMD Conditions No. 5-6 (onsite solid and liquid waste disposal requirements), AQMD Conditions No. 8-13 (standard requirements of law regarding sources of air pollution) and Fire District Condition No. 14 (compliance with all applicable fire codes, ordinances and standards).

**Environmental Review:** The project involves limited physical changes to the environment. Therefore, the project has been found exempt from CEQA pursuant to Sections 15303 and 15304 of the CEQA Guidelines. Section 15303 (New Construction or Conversion of Small Structures) applies to construction and location of limited numbers of new small facilities or structures, or conversion of small structures from one use to another where only minor modifications are made in the exterior of the structure. Specific examples of new or converted structures under this exemption include but are not limited to a store, motel, office, restaurant or similar structure not involving significant amounts of hazardous substances and not exceeding 2,500 square feet in floor area. Therefore, construction of a small 711 square foot visitor center, a 571 square foot storage building, a 16-space parking area and improved walking trails qualifies for a Section 15303 exemption.

Section 15304 (Minor Alterations to Land) applies to minor alterations in the condition of land, water and vegetation, including minor grading, filling and landscaping. All proposed improvements will be in areas previously disturbed during prior timber harvests, including a previously cleared area for the visitor center site. Cremains will be mixed with local soil to ensure ashes are not visually distinguishable in the mixture and to ensure there would be no adverse environmental impacts, including impacts to water resources or forest health. Therefore, the project also qualifies for a Section 15304 exemption.



## SUPPORT INFORMATION

### Attachments to Staff Report:

Findings	
Conditions of Approval	
Exhibit A.....	Vicinity Map
Exhibit B.....	Location Map
Exhibit C.....	Site Aerial Photo
Exhibit D.....	Assessor's Parcel Map
Exhibit E.....	General Plan Land Use Map
Exhibit F.....	Zoning Map
Exhibit G.....	Site Plan
Exhibit H.....	Photograph of Typical Memorial Site Marker
Exhibit I.....	Photograph of Existing BPF Visitor Center Facility at Point Arena, California
Exhibit J.....	Cremains Treatment Methodology Memo, November 5, 2019
Exhibit K.....	Existing Site Photographs
Exhibit L.....	Proposed Landscaping Plan
Exhibit M.....	Walkway Lighting Specifications
Exhibit N.....	Proposed Building Elevations
Exhibit O.....	EID Facility Improvement Letter, October 28, 2019
Exhibit P.....	Grading and Drainage Plan
Exhibit Q.....	County Cemeteries Division Comment Letter, October 26, 2020
Exhibit R.....	Chico Environmental Report of Findings – Surface Soil Sampling, October 28, 2020
Exhibit S.....	Utility Plan
Exhibit T.....	Summary of Applicant Public Outreach Meeting September 19, 2019