

## **Findings**

Based on the review and analysis of this project by staff and affected agencies, and supported by discussion in the staff report and evidence in the record, the following findings can be made:

### **1.0 CEQA FINDINGS**

- 1.1 El Dorado County has considered the Negative Declaration together with the comments received and considered during the public review process. The Negative Declaration reflects the independent judgment of the County and has been completed in compliance with CEQA and is adequate for this project.
- 1.2 No significant impacts to the environment as a result of this project were identified in the initial study.
- 1.3 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Development Services Department - Planning Services at 2850 Fairlane Court, Placerville, CA, 95667

### **2.0 GENERAL PLAN FINDINGS**

- 2.1 As proposed, the project is consistent with the Low-Density Residential (LDR) land use designation as defined within General Plan Policy 2.2.1.2 because the LDR land use designation permits residential uses on parcel sizes that range from 5.00 to 10.00 acres.
- 2.2 The proposal is consistent with General Plan policies, including 2.2.5.21 (land use compatibility), 5.2.1.2 (quantity and quality of water), 5.2.3.2 and 5.2.3.4 (safe and reliable water source) 5.2.3.5 (adequate groundwater supply for density of project) 5.7.1.1 (emergency water supply), 7.3.3.4 (setback to water features) and 7.4.4.4 (Preservation of Oak Woodland Habitat). It has been determined that the project is consistent with the General Plan because the project is consistent with the land use density, would not impact water resources, provides adequate access and emergency water supply, complies with lot configuration standards, would provide setbacks to an intermittent stream and would protect oak tree canopy.

### **3.0 ZONING FINDINGS**

#### **3.1 The Zone Change is consistent with the General Plan.**

The Zone Change would amend the parcels zoning from Estate Residential (RE-10) to Estate Residential Five-Acre (RE-5). The Zone Change is consistent with the Low Density Residential (LDR) land use designation. The Zone Change has been evaluated

against the specific criteria include in General Plan Policy 2.2.5.3 and it has been determined that the adequate site conditions exist to support the increase in density.

#### **4.0 ADMINISTRATIVE FINDINGS**

##### **4.1 Parcel Map**

###### **4.1.1 The proposed parcel sizes are consistent with the General Plan land use map and policies.**

The proposed tentative Parcel Map, including design and improvements, is consistent with the General Plan and Land Use map. As proposed, the Parcel Map conforms to the Low-Density Residential General Plan land use designation and applicable General Plan policies including access, oak tree canopy retention, grading, transportation, fire protection, water supply and wastewater disposal.

###### **4.1.2 The proposed tentative parcel map conforms to the applicable standards and requirements of the County zoning regulations and Minor Land Division Ordinance.**

As proposed, the tentative parcel map conforms to the development standards within the Estate Residential Five-Acre Residential (RE-5) Zone District and the Minor Land Division Ordinance.

###### **4.1.3 The site is physically suitable for the type of development proposed.**

The project was designed in a manner which equally distributes the existing suitable emergency and potable water, emergency access, septic disposal areas, and natural feature features. The project avoids disturbances to slopes in excess of 30 percent, shows the ability for minimum impacts on the drainage swale areas, and is compatible within the surrounding land uses in the project vicinity. The proposed development meets the density and minimum parcel sizes allowed in the General Plan LDR land use designation and conforms to the minimum parcel size and development standards of the RE-5 zone district.

###### **4.1.4 The proposed subdivision is not likely to cause substantial environmental damage.**

The proposed Parcel Map is not likely to cause substantial environmental damage as determined in the prepared environmental document. The project was designed in a manner which avoids excessive grading and oak tree canopy removal.

#### **5.0 DESIGN WAIVER FINDINGS**

##### **5.1. Allow a driveway standard for access to Parcel A.**

- 5.1.1 **Special conditions for circumstances peculiar to the property proposed to be divided which would justify the adjustment or waiver** because alternative access to proposed Parcel A would involve introducing an 20-foot wide road to the parcel which would allow unwanted public access and require acquisition of lands through a neighboring parcel with a 50-foot wide easement, none of which are desirable to the surrounding residents or the applicant. Requiring the parcel to front a road pursuant to Volume II, section 2, B (5) would require creating a 100-foot frontage pursuant to section 17.28.210 (C) of the Zoning Code which would then create parcels exceeding the required 3 to 1 ratio because they must remain 5 acres or more in size. The new parcel with a driveway standard would remain in standard rectangular shapes which would conform to the dominant pattern of the parcels surrounding them, and they would use an existing encroachment and not introduce any new undesirable impacts to the existing road system or to the existing neighbors.
- 5.1.2 **Strict application of County design and improvement requirements would cause extraordinary and unnecessary hardship in developing the property** because Strict application of the requirement for lots to meet the *El Dorado County Design and Improvement Standards* required frontage on a public street or a street meeting County subdivision design and improvement standards would create a flag-shaped parcel that would the 3 to 1 ratio and introduce new public access and road improvements that are not desired by any of the parcel owners involved for access from Sierra Vista Drive.
- 5.1.3 **The adjustment or waiver would not be injurious to adjacent properties or detrimental to the health, safety, convenience and welfare of the public** because allowing a parcel to use a driveway standard access road for exclusive access to Parcel A will not be injurious to adjacent properties or detrimental to the public health, safety, and welfare.
- 5.1.4 **This waiver would not have the effect of nullifying the objectives of Article II of Chapter 16 of the County Code or any other ordinance applicable to the division** because the approval of this design waiver will not nullify the additional requirements contained in the Chapter 16 of County Code.

### Conditions of Approval

#### Planning Services

1. This Zone Change and Parcel Map is based upon and limited to compliance with the project description, the Staff Report Exhibit E (Tentative Parcel Map), and conditions of approval set forth below. Any deviations from the project description, exhibits, or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

The project description is as follows:

**Rezone:** The Rezone would change the zoning of the property from Estate Residential (RE-10) to Estate Residential Five-Acre (RE-5).

**Tentative Parcel Map:** Tentative Parcel Map to create two parcels, each 5 acres in size, created from Assessor's Parcel Number 070-131-16. The two proposed parcels would be served by private wells and septic facilities. The project shall utilize Sierra Vista Drive as primary access.

**Design Waiver:** A Design Waiver is granted to allow Parcel A not to front a road and to utilize instead, a 40-foot access and public utility easement through APN 070-131-07 for an access driveway to serve Parcel A.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto. All plans must be submitted for review and approval and shall be implemented as approved by the County.

2. **Park In-Lieu Fees, Payment:** The subdivision is subject to parkland dedication in-lieu fees based on values supplied by the Assessor's Office and calculated in accordance with Section 16.12.090 of the County Code. Planning Services shall verify that the required fees have been paid prior to the filing of the Parcel Map.
3. **Archeological Resources:** In the event of the discovery of human remains, all work is to stop and the County coroner shall be immediately notified pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.98 of the Public Resources Code. If the remains are determined to be Native American, the Coroner shall contact the Native American Heritage Commission within 24 hours. The treatment and disposition of human remains shall be completed consistent with guidelines of the Native American Heritage Commission. Planning Services shall confirm the inclusion of this requirement on the grading plans prior to issuance of a grading permit.
4. **Riparian Setbacks:** The applicant shall delineate a 50-foot setback easement from the Ordinary High Water Mark of the intermittent stream. Planning Services shall verify the inclusion of these setbacks prior to filing the Parcel Map.
5. **Oak Canopy Conservation: Oak Woodland:** Any future El Dorado County native oak tree canopy removed for residential development shall be mitigated as specified in the Oak Woodland Management Plan, adopted by the Board of Supervisors on May 6, 2008, as amended.

6. **Development Services Processing Fees:** The applicant shall make the actual and full payment of all Development Services processing fees for the Tentative Parcel Map application prior to filing the Parcel Map.
7. **Hold Harmless Agreement:** In the event of any legal action instituted by a third party challenging the validity of any provision of this approval, the developer and landowner agree to be responsible for the costs of defending such suit and shall hold County harmless from any legal fees or costs County may incur as a result of such action, as provided in Section 66474.9(b) of the Government Code.

The subdivider shall defend, indemnify, and hold harmless El Dorado County and its agents, officers, and employees from any claim, action, or proceeding against El Dorado County or its agents, officers, or employees to attack, set aside, void, or annul an approval of El Dorado County concerning a subdivision, which action is brought within the time period provided for in Section 66499.37.

County shall notify the subdivider of any claim, action, or proceeding and County will cooperate fully in the defense.

Prior to the filing of the Parcel Map, if the subject property is subject to liens for assessment or bonds, pursuant to the provisions of Government Code Section 66493, the owner or subdivider shall do one of the following: (a) Pay the assessment or bond in full; (b) File security with the Clerk of the Board of Supervisors; or (c) File with the Clerk of the Board of Supervisors the necessary certificate indicating that provisions have been made for the segregation of bond assessment responsibility, pursuant to Government Code Section 66493(d).

8. **Compliance with Conditions:** Prior to filing the Parcel Map or issuance of any building permit authorized by this permit, the applicant shall provide a written description, together with appropriate documentation, showing conformance of the project with each condition imposed as part of the project approval. Planning Services shall verify compliance prior to filing the Parcel Map.

The applicant shall also schedule an inspection by Planning Services prior to issuance of a building permit for verification of compliance with applicable Conditions of Approval.

9. **Permit Time Limits:** This Tentative Parcel Map shall expire within 36 months from the date of approval unless a timely extension has been filed.
10. **Fish and Game Fee:** The applicant shall submit to Planning Services a \$50.00 recording fee and a \$2,044.00 Department of Fish and Game fee prior to filing of the Notice of Determination by the County. No permits shall be issued or final map filed until said fees are paid.

## Department of Transportation

11. **Access Road:** The applicant shall improve Sierra Vista Road from Green Valley Road to the project encroachment in accordance with the El Dorado County Design and Improvements Standard Manual (DISM) Standard Plan 101C and the 2007 CA Fire Code with a 20-foot wide roadway capable of supporting 40,000 pounds. These improvements shall be completed to the satisfaction of the Department of Transportation or the applicant shall obtain an approved improvement agreement with security, prior to the filing of the parcel map.
12. **Road Easement:** A 40-foot road and public utility easement shall be provided thru APN 070-131-07, along the north-western boundary of Parcel B for the access road serving parcel A with the filing of the parcel map.
13. **Encroachment:** The applicant shall construct the driveway encroachment(s) onto Sierra Vista Way to the provisions of County Design Std 103B-1. The improvements shall be completed to the satisfaction of the Department of Transportation or the applicant shall obtain an approved improvement agreement with security, prior to the filing of the parcel map.
14. **Vehicular Access Restriction:** A Vehicular access restriction (VAR) shall be placed along the proposed 40-foot road and public utility easement along the entire on-site portion of Parcel B of this map and through APN 070-131-07, prior to the filing of the parcel map. This easement shall be restricted for access use serving Parcel A of this map.
15. **Sight Distance:** All driveway encroachments shall meet the minimum sight distance standards as specified in DISM Std 103B-1. Sight distance easements, if necessary, must be obtained by the applicant and included on the map prior to approval of improvement plans.

## DOT STANDARD CONDITIONS

16. **Easements:** All applicable existing and proposed easements shall be shown on the parcel map and improvement plans.
17. **Maintenance Entity:** The proposed project must form an entity for the maintenance of any shared or common: private roads, parking facilities, landscaping, signs and drainage facilities. If there is an existing entity, the property owner shall modify the document if the current document does not sufficiently address maintenance of the roads, parking facilities, landscaping, signs, and drainage facilities of the current project. DOT shall review the document forming the entity to ensure the provisions are adequate prior to filing of the parcel map.
18. **Construction Hours:** Construction activities shall be conducted in accordance with the County Health, Safety, and Noise Element and limited to the daylight hours between 7:00

a.m. and 7:00 p.m. on any weekday, and 8:00 a.m. and 5:00 p.m. on weekends and federal holidays.

19. **DISM Consistency:** The developer shall obtain approval of project improvement plans and cost estimates consistent with the Subdivision Design and Improvement Standards Manual (as may be modified by these Conditions of Approval or by approved Design Waivers) from the County Department of Transportation, and pay all applicable fees prior to filing of the parcel map.
20. **Parcel Map Improvement Agreement & Security:** If the required improvements are not completed prior to filing of the map or if the Engineer's Estimate is \$100,000 or greater for the required improvements, the developer shall enter into a Parcel Map Improvement Agreement (PMIA) with the Department of Transportation for onsite roadway, drainage infrastructure, grading, etc. The developer shall also provide a security to guarantee performance of the PMIA as set forth within the County of El Dorado Subdivision Division Ordinance, prior to filing of the map. The improvements shall be installed to the satisfaction of DOT prior to filing of the parcel map. This condition shall appear as a note on the recorded parcel map.
21. **RCD Coordination:** The timing of construction and method of revegetation shall be coordinated with the El Dorado County Resource Conservation District (RCD). If grading activities are not completed by September, the developer shall implement a temporary grading and erosion control plan. Such temporary plans shall be submitted to the RCD for review and recommendation to the Department of Transportation. The Department of Transportation shall approve or conditionally approve such plans and cause the developer to implement said plan on or before October 15.
22. **Drainage Study / SWMP Compliance:** The applicant shall provide a drainage report at time of improvement plans or grading permit application, consistent with the Drainage Manual and the Storm Water Management Plan, which addresses storm water runoff increase, impacts to downstream facilities and properties, and identification of appropriate storm water quality management practices to the satisfaction of the Department of Transportation.

The Drainage Study must demonstrate the subject property has adequate existing and proposed storm drainage facilities. At a minimum, the drainage study, plans, and calculations shall include the following:

- a. The site can be adequately drained;
- b. The development of the site will not cause problems to nearby properties, particularly downstream sites;
- c. The on-site drainage will be controlled in such a manner as to not increase the downstream peak flow more than the pre-development 10-year storm event or cause a hazard or public nuisance. Detention shall be required if said condition is not met or the applicant shall demonstrate that there are no downstream impacts.

d. The ultimate drainage outfall of the project.

Pursuant to Section 1.8.3 of the Drainage Manual, the report shall be prepared by a Civil Engineer who is registered in the State of California. A Scoping Meeting for the required drainage study between County staff and the engineer shall occur prior to the first submittal of improvement plans. The engineer shall bring a watershed map and any other existing drainage system information to the Scoping Meeting. The improvements shall be completed to the approval of the Department of Transportation prior to the filing of the parcel map or the applicant shall obtain an approved improvement agreement with security.

23. **Drainage Easements:** Pursuant to Section 4.D of the DISM, the site plans shall show drainage easements for all on-site drainage courses and facilities and shall be included on all improvement plans and / or on the final map.
24. **NPDES Permit:** At the time that an application is submitted for improvement plans or a grading permit, and if the proposed project disturbs more than one acre of land area (43,560 square feet), the applicant shall file a "Notice of Intent" (NOI) to comply with the Statewide General NPDES Permit for storm water discharges associated with construction activity with the State Water Resources Control Board (SWRCB). This condition is mandated by the Federal Clean Water Act and the California Water Code. A filing form, a filing fee, a location map, and a Storm Water Pollution Prevention Plan (SWPPP) are required for this filing. A copy of the Application shall be submitted to the County, prior to building permit issuance, and by state law must be done prior to commencing construction.
25. **Storm Water Drainage BMPs:** Storm drainage from on-and off-site impervious surfaces (including roads) shall be collected and routed through specially designed water quality treatment facilities (BMPs) for removal of pollutants of concern (e.g. sediment, oil/grease, etc.), as approved by DOT. This project is located within the area covered by El Dorado County's municipal storm water quality permit, pursuant to the National Pollutant Discharge Eliminated System (NPDES) Phase II program. Project related storm water discharges are subject to all applicable requirements of said permit. BMPs shall be designed to mitigate (minimize, infiltrate, filter, or treat) storm water runoff in accordance with "Attachment 4" of El Dorado County's NPDES Municipal Storm water Permit (State Water Resources Control Board NPDES General Permit No. CAS000004).

With the Improvement Plans, the applicant shall verify that the proposed BMPs are appropriate to treat the pollutants of concern from this project. A maintenance entity of these facilities shall be provided by the project applicant. DOT shall review the document forming the entity to ensure the provisions are adequate prior to filing of the final map.

26. **Off-site Improvements (Security):** Prior to the filing of a parcel map, the applicant shall enter into an agreement pursuant to Government Code Section 66462.5 to complete



the required offsite improvements, including the full costs of acquiring any real property interests necessary to complete the required improvements. In addition to the agreement, the applicant shall provide a cash deposit, letter of credit, or other acceptable surety in the amount sufficient to pay such costs, including legal costs, subject to the approval of County Counsel.

27. **Off-site Improvements (Acquisition):** As specified in the Conditions of Approval, the applicant is required to perform off-site improvements. If it is determined that the applicant does not have or cannot secure sufficient title or interest of such lands where said off-site improvements are required, the County may, at the applicant's expense and within 120 days of filing the Parcel Map, acquire by negotiation or commence proceedings to acquire an interest in the land which will permit the improvements to be made, including proceedings for immediate possession of the property. In such cases, prior to filing of any parcel map, the applicant shall submit the following to the Department of Transportation Right of Way Unit, and enter into an agreement pursuant to Government Code Section 66462.5 and provide acceptable security to complete the offsite improvements, including costs of acquiring real property interest to complete the required improvements, construction surveying, construction management and a 20% contingency:
- a. A legal description and plat, of the land necessary to be acquired to complete the offsite improvements, prepared by a civil engineer or land surveyor.
  - b. Approved improvement plans and specifications of the required off-site improvements, prepared by a civil engineer.
  - c. An appraisal prepared by a certified appraiser of the cost of land necessary to complete the off-site improvements.

In addition to the agreement the applicant shall provide a cash deposit, letter of credit, or other acceptable surety in an amount sufficient to pay such costs including legal costs subject to the approval of County Counsel.

28. **TIM Fees:** The applicant shall pay the traffic impact mitigation fees at issuance of building permit.

#### **Rescue Fire Protection District**

29. **Fire Safe Plan:** The applicant shall provide a fuel Modification and Wildland Fire Safe Management Plan, to be prepared by a Registered Professional Forester and shall be reviewed and approved by the Rescue Fire Protection District and the California Department of Forestry and Fire Protection. A Notice of Restriction shall be filed with the Parcel Map which stipulates that a Wildfire Fire Safe Plan has been prepared and wildfire mitigation measures shall be implemented.

30. **Driveway Widths:** The minimum width for all driveways shall be 12 feet with a vertical clearance of 15 feet. The District shall verify compliance with this requirement prior to issuance of a building permit.
31. **Driving Surface:** Sierra Vista Road shall be a minimum road width of 20 feet and “designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather capabilities,” (2010 California Fire Code Section 503.2.3). The District shall verify compliance with this requirement prior to issuance of a grading permit.
32. **Fire Flow Requirements:** In place of meeting the fire flow requirements and a hydrant, the applicant may use a NFPA 13D home sprinkler system with a water storage tank for all structures built on each parcel. See the El Dorado County Fire Prevention Standard for water supplies in residential construction, without a purveyor for water storage requirements. Prior to filing the Parcel Map, a Notice of Restriction shall be recorded noting this requirement.
33. **Fire Safe Regulations:** The project shall meet the requirements of the California SRA Fire Safe Regulations, the California Fire Code 2007 Edition for access and water supply. The District shall verify compliance with this requirement prior to issuance of a building permit.

#### **El Dorado County Environmental Health**

34. **Water:** The applicant shall provide a reliable water source for proposed Parcel A that meets the requirements of EDC Policy #800-02. A shared well system shall be prohibited for proof of water for the creation of new lots. Where feasible, wells supplying water for domestic residential use should be located on the parcel being served. Wells serving residential parcels may be located on other residential parcels or on designated open space lots within the subdivision, provided that such well and pipeline improvements are located within a designated easement appurtenant to the parcel being served by the well. Easements for well and pipeline improvements on servient parcels shall be shown on all Final Maps prior to approval and filing.

#### **Air Quality Management District**

35. **Asbestos Dust Mitigation Plan:** The applicant shall make applications and pay the appropriate fees for an Asbestos Dust Mitigation Plan. The District shall review and approve the plan prior to commencement of any construction.
36. **District Rules:** The applicant shall comply with all District air quality rules during project construction.

#### **El Dorado County Resource Conservation District**

37. **Erosion Control Plan:** Prior to grading operations, the developer shall contact the District for review of an erosion control plan. The erosion control plan must be approved by the District prior to issuance of a grading permit.

**County Surveyor**

38. **Survey Monuments:** All survey monuments shall be set prior to filing the Parcel Map. The project applicant shall ensure verification of set survey monuments prior to filing of the Parcel Map.
39. **Parcel Map Guarantee:** The applicant shall provide a Parcel Map Guarantee, issued by a title company, showing proof of access to a State or County Maintained Road as defined in 16.44.120(B)(2), prior to filing the Parcel Map.
40. **Conditions of Approval:** Prior to filing the Parcel Map, a letter shall be required from all agencies that have placed conditions on the map. The letter shall state that “all conditions placed on P09-0013 by (that agency) have been satisfied.” The letter is to be sent to the County Surveyor’s and copied to the consultant and the applicant.