

**Findings**

**1.0 CEQA Findings**

- 1.1 El Dorado County has considered the Mitigated Negative Declaration together with the comments received during the public review process. The proposed project, as conditioned, will not have a significant effect on the environment. The Mitigated Negative Declaration reflects the independent judgment of the County and has been completed in compliance with CEQA and is adequate for this proposal.
- 1.2 The Planning Commission finds that through feasible conditions and mitigation placed upon the project, impacts on the environment have been eliminated or substantially mitigated.
- 1.3 Public Resources Code Section 21081.6 requires the County to adopt a reporting or monitoring program for the changes to the project which it has adopted or made a condition of approval in order to mitigate or avoid significant effects on the environment. The approved project description and conditions of approval, with the corresponding permit monitoring requirement, is hereby adopted as the monitoring program for this project. The monitoring program is designed to ensure compliance during project implementation.
- 1.4 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-Planning Services at 2850 Fairlane Court, Placerville, CA.

**2.0 General Plan Findings**

- 2.1 As proposed, the project is consistent with the Rural Residential (RR) land use designation of the subject site as defined by General Plan Policy 2.2.1.2, because this land use designation permits an allowable density of one dwelling unit per 10 to 160 acres, and establishes areas for single family residential and agricultural development in a rural setting. The proposed 20 and 26.23-acre parcels conform to the General Plan land use designation.
- 2.2 As conditioned and mitigated and with strict adherence to County Code, the proposal is consistent with all applicable Policies of the General Plan including 2.2.5.21 (land use compatibility), 2.2.5.3 (future rezoning), 5.7.1.1 (emergency water supply), 6.2.2.2 (high wildland fire hazard), 6.2.3.2 (fire safe access), 6.5.1.8 (noise impacts), 7.3.3.4 (wetland buffers), 7.4.2.9 (Important Biological Corridor (IBC) overlay), 7.4.4.4 (oak tree canopy retention and replacement), 8.1.3.1 (ten-acre buffer for agriculturally zoned lands), 8.1.3.2 (200-foot setback buffer for agriculturally zoned lands), 8.1.4.1 (Agricultural Commission review), 8.2.2.5 (adequate parcel size to allow adequate setback) concerning

adequate roadways, utilities and other public services, compatibility with the surrounding neighborhood, availability of emergency water, adequate emergency access, noise impacts, wetland impacts, retaining the character of land located designated as IBC, mitigation for the loss of indigenous oak tree canopy, and impacts to agriculturally-zoned lands. The project provides adequate access and site design that ensure compatibility with the surrounding permitted land uses, and is consistent with the General Plan policies identified above.

### **3.0 Zoning Findings**

- 3.1 The project, as proposed and conditioned, is consistent with the El Dorado County Zoning Ordinance Development Standards because the proposed 20 and 26.23-acre lots would conform to the new zoning and the development standards in Section 17.30.050 for minimum lot width of 300 feet, minimum parcel size of 20 acres, building setback requirements of 30 feet from parcel boundaries and road easements from non-agricultural parcels, 50 feet for agriculture structures, 200 feet for agriculturally incompatible uses from agricultural parcels, as well as the parking requirements of two spaces not in tandem per dwelling unit pursuant to Section 17.18.060.

### **4.0 Administrative Findings**

#### **4.1 Rezone Finding**

- 4.1.1 **That the rezone is consistent with the adopted 2004 General Plan Land Use Designation and the policies of the General Plan** because the Residential Agricultural 20-Acre (RA-20) Zone is consistent with the Rural Residential (RR) land use designation based on the Consistency Matrix, Table 2-4. The RA-20 zone allows parcels to be a minimum of 20 acres in size while the RR designation allows 10.0 to 160 acres depending on the availability of infrastructure and public resources. The rezone is compatible with the surrounding pattern of development where a majority of parcels are five acres or larger within a 500-foot radius of the property. With the Tentative Parcel Map site design and the project-specific conditions related to improvements for infrastructure, this project meets the applicable conditions of Policy 2.2.5.3. This project also meets applicable policies outlined by the General Plan including, but not limited to, those established for wetland buffers, preservation of oak woodland tree canopy and cultural resources, slope preservation, compatibility with agriculture, and adequacy of public services and utilities.

#### **4.2 Tentative Parcel Map Findings**

- 4.2.1 **The proposal conforms to the County's zoning regulations and Minor Land Division Ordinance** because they are of adequate size for the Residential Agricultural 20-Acre (RA-20) zone district, there is adequate emergency and standard vehicular access provided, and public facilities and existing utilities to support the residential uses.

- 4.2.2 **The site is physically suitable for the proposed type and density of development** because the parcels have existing facilities and utilities to support the residential uses on site or are conditioned to provide them prior to filing the Parcel Map.
- 4.2.3 **The proposed tentative map is not likely to cause substantial environmental damage** because the access roadway to Parcel 1 will not require modifications to the existing rough-graded roadway or encroachment onto State Route 193 because the impacts to that existing roadway and encroachment will not change as a result of this Parcel Map. Parcel 2 will gain access directly from SR 193 from an independent encroachment to be approved prior to issuance of final occupancy for any future grading and/or building permit. The impacts from all other potential impacts have been analyzed in the Initial Study and, as conditioned, mitigated and with strict adherence to County Code, have been found to be less than significant.

## **Conditions of Approval**

### **Project Description**

1. This rezone and Tentative Parcel Map is based upon and limited to compliance with the project description, the hearing exhibits marked Exhibits A-M, 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:

Approval of this project allows the following: Rezone of the 46.23-acre parcel referenced as Assessor's Parcel Number 073-020-43 from Residential Agricultural 20-Acre -Planned Development (RA-20-PD) to Residential Agricultural 20-Acre (RA-20) and a Tentative Parcel Map to subdivide the 46.23-acre parcel into two parcels, 20.00 acres and 26.23 acres in size. Neither of the two parcels shall be less than 20-acres in size. Parcel 1 would have 2,259 sq. ft. single family residence, 748 sq. ft. garage, and one inspection exempt barn. Parcel 2 would be unimproved.

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.

## Conditions from the Mitigated Negative Declaration

2. Prior to disturbance of any waters of the United States including any wetland features, the wetland delineation study for the project site shall be submitted to the Corps for their verification and approval. If fill of any potential waters of the U.S are anticipated, the appropriate Corps 404 permit must be obtained prior to the fill activity occurring. The appropriate terms of mitigation including the wetland acreage to be mitigated for would be defined in the issued Corps permit. Any waters of the U.S. that would be lost or disturbed should be replaced or rehabilitated at a “no-net-loss” basis in accordance with the Corps’ mitigation guidelines. Habitat restoration, rehabilitation, and/or replacement shall be at a location and by methods agreeable to the Corps. A total of 4.84 acres of seasonal wetlands were mapped in the combined study area and infrastructure corridors. Wetland mitigation for this project shall be required. Mitigation may include the purchase of mitigation credits from an approved wetland mitigation bank at an appropriate ratio for each acre of wetland /waters proposed to be impacted as determined by the Corps of Engineers. **[MM Bio 1].**

**Monitoring:** The applicant shall provide a copy of the 404 permit, if required, to Planning Services prior to issuance of the grading permit. If no permits are required by the Corps, a letter from the Corps shall be provided to Planning Services stating that no permit shall be required for this project.

3. A 50-foot non-building/disturbance setback line shall be recorded on the Parcel Map that begins at all high-water marks or the outer boundary of any adjacent wetlands along the unnamed tributary that transverses the northeast corner and is shown on the Greenwood U.S.G.S Quadrangle and as determined by the Corps of Engineer's verified wetland delineation of waters of the United States. No development shall occur within the setback area and a note shall be made on the Parcel Map identifying that said purpose for the line and for streambed protection purposes. No proposed lot boundary lines shall infringe on said setback lines. The identification shall be made on the Parcel Map, Site Plan Review, grading and building plans where applicable. **[MM Bio 2].**

**Monitoring:** Prior to filing of Parcel Map, Site Plan Review (SPR), grading and/or building plan approval, Planning Services shall verify that the identification has been made on the Parcel Map, Site Plan Review, grading and building plans where applicable.

4. A Streambed Alteration Agreement shall be obtained from CDFG, if applicable, pursuant to Section 1602 of the California Fish and Game Code, for each stream crossing and any other activities affecting the bed, bank, or associated riparian vegetation of any stream on the site. Appropriate mitigation measures would be developed in coordination with CDFG in the context of the 1602 agreement process. Authorization prior to placement of any fill is required from the Corps of Engineers if any impacts are proposed to jurisdictional riparian habitat. This authorization may require mitigation as deemed necessary by the Corps of Engineers. **[MM Bio 3].**

**Monitoring:** The applicant shall provide a copy of the 1602 permit, if applicable, to Planning Services prior to issuance of the grading permit.

5. The applicant shall pay the in-lieu fee for 0.25 acre oak canopy removed. The fee shall be paid at a 1:1 ratio as required by the Oak Woodland Conservation Ordinance and shall be based on the fee established by the Board of Supervisors.

**Monitoring:** The applicant shall provide to Development - Planning Services proof of payment of the in-lieu fee prior to issuance of a grading permit. [MM Bio 4].

6. A deed restriction and permanent easement shall be placed over the site area identified for protection by the Cultural Resource Study for the site dated October 2005, and the amended study dated January 2007. The purpose of said easement shall be for the prevention of any use or impact to that portion of the parcel. The easement area shall be shown on the final Parcel Map.

**Monitoring:** The applicant shall supply a letter from the qualified archeologist to Planning Services staff that the location noted on the map is accurate, prior to filing the Parcel Map. [MM Cult Res 1].

7. A 225-foot non-building setback from the eastern parcel boundary along the full length of where it adjoins State Route 193 shall be shown on the final Parcel Map. [MM Noise-1].

**Monitoring:** Planning Services shall be responsible for assuring that the 225-foot non-building setback is shown on the final Parcel Map prior to filing. The final Parcel Map shall have a note explaining that the setback line is for the purpose of protecting the residents from traffic noise and for aesthetic reasons for views from State Route 193, pursuant to the adopted Mitigated Negative Declaration. A note shall also be made on the Parcel Map that this setback restriction shall include only noise sensitive structures such as dwellings, guest house, and pools.

### **Planning Services Site Specific and Standard Conditions**

8. The map shall remain in effect for three years from the date of approval. If the map has not been recorded within this timeframe, an extension may be requested prior to expiration of the map. Appropriate fees shall be paid to process the time extension.
9. The applicant shall submit to Planning Services a \$50.00 recording fee and a \$1,993.00 Department of Fish and Game fee prior to filing of the Notice of Determination by the County. No permits shall be issued or Parcel Map filed until said fees are paid.
10. The applicant shall be required to pay Park-in-Lieu fee of \$150.00 payable to the Georgetown Divide Recreation District, pursuant to El Dorado County Subdivision Ordinance Chapter 16.12.090. A receipt showing compliance with this condition shall be submitted by the applicant to Planning Services prior to filing the Parcel Map.

11. The applicant shall make the actual and full payment of Development Services Department processing fees for the Zone Change and the Tentative Parcel Map applications prior to filing the Parcel Map.
12. If human remains are discovered at any time during the subdivision improvement phase, the County Coroner and Native American Heritage Commission shall be contacted per Section 7050.5 of the Health and Safety Code and Section 5097.89 of the Public Resources Code. The procedures set forth in Supplementary Document J, Section VIII, of the California Environmental Quality Act (CEQA) Guidelines concerning treatment of the remains shall be followed. If archaeological sites or artifacts are discovered, the subdivider shall retain an archaeologist to evaluate the resource.

If the resource is determined to be important, as defined in Appendix K of the CEQA Guidelines, mitigation measures, as agreed to by the subdivider, archaeologist, and Planning Services shall be implemented. Treatment of Native American remains and/or archaeological artifacts shall be the responsibility of the subdivider and shall be subject to review and approval by Planning Services.

13. 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 California 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 rezone and Parcel Map, 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.

#### **El Dorado County Fire Protection District**

14. The applicant shall submit review fee of \$150.00 prior to filing the Parcel Map.
15. Fire flow for this project shall be 1,000 gpm @ 20 psi for two hours with 3 hydrants. In place of requirements for hydrants and fire flow the applicant shall enter into a deed restriction for Parcel 2 with a Fire District approved NFPA 13D Fire Sprinkler System with 3,000 gallons of water storage on each parcel for all new structures. The deed restriction shall be reviewed and approved by the District prior to filing the Parcel Map. The deed restriction shall be recorded concurrently with the Parcel Map.

16. The existing home on Parcel 1 shall require 3,000 gallons of Fire District approved water storage within 150 feet of the home. Proof of compliance with said condition shall be received by the District prior to filing the Parcel Map.
17. The applicant shall develop and implement an El Dorado County Fire Protection District and Cal Fire approved Fire Safe Plan for the project parcels. Said plan shall be reviewed and approved by the District prior to filing the Parcel Map. A Notice of Restriction (NOR) shall be recorded that ensures implementation of the Fire Safe Plan. The NOR shall be reviewed and approved by the El Dorado County Fire Protection District prior to filing the Parcel Map.

**Georgetown Divide Public Utility District (GDPUD)**

18. The existing seasonal irrigation water account with GDPUD shall be required to be assigned to one of the new parcels prior to filing the Parcel Map. If the account is assigned to one of two parcels that is not adjacent to the existing facilities, an easement shall be reserved for the private service line from the existing ditch connection facilities to the account holder's parcel. The easement shall be between five and ten feet wide, to the discretion of the subject Tentative Parcel Map applicant. The location of the easement on the Parcel Map, as well as the note describing the easement, shall be reviewed and approved by GDPUD prior to filing the Parcel Map.
19. A 50-foot wide easement that equally straddles GDPUD's Main Ditch #2 which traverses the property in the northwest portion of proposed Parcel 1 as shown in Exhibit F shall be dedicated to GDPUD and recorded on the parcel map for access purposes to maintain and repair the facilities within the easement. The location of the easement on the Parcel Map, as well as the note describing the easement, shall be reviewed and approved by GDPUD prior to filing the Parcel Map.

**California Department of Transportation (Caltrans)**

20. The locations of the encroachment from Parcels 1 and 2 onto State Route 193, and all associated easements within the State right-of-way shall be accurately shown and described on the Parcel Map and shall be reviewed and approved by Caltrans prior to filing the Parcel Map.
21. The existing access to Parcel 2 shall be upgraded to State Standards. An encroachment permit shall be required for any work conducted in the State's right-of-way such as sign placement, traffic control, light installation, culvert maintenance, or drainage pattern changes. A cost estimate for the work within the State's right-of-way will be reviewed to determine whether it triggers the need for a 'project funded by others' designation. To secure an application the applicant shall contact Encroachment Permits Central Office at (530) 741-4403 for information regarding the Caltrans encroachment permit process for any work that would be conducted in the State right-of-way. The width of the existing

easternmost encroachment located at approximately PM 5.2 shall be 12 feet wide measured at the end of the returns.

22. The applicant shall request a "Notice of Completion" from the Encroachment Permit Office once all work related to the encroachment permit application has been completed as shown on the approved plans. The applicant shall provide Development Services a copy of said Notice prior to issuance of final occupancy for any grading or building permit for Parcel 2.
23. A Drainage Report shall be prepared and submitted to Caltrans District 3 Hydraulics Branch, at (530) 741-4056, at the time of the request for an encroachment permit, for review and approval. The Report shall address the following concerns:
  - a) Within the project area, a 24-inch culvert at Post Mile 4.9, and a 48-inch culvert at Post Mile 5.1 convey runoff flows around State Route 193. Additional runoff flows from this proposed project shall not be directed towards these culverts.
  - b) Pre-project and post-project flows should be calculated. Mitigation for any additional runoff flow from this project shall be provided.

#### **Environmental Management Department – Environmental Health Division**

24. Prior to filing the Parcel Map, each parcel shall have a safe and reliable well provided for that meets the criteria of Environmental Management Policy 800-02. Proof of compliance with said condition shall be received by the Division prior to filing the Parcel Map.

#### **El Dorado County Office of the County Surveyor**

25. All survey monuments shall be set prior to filing the Parcel Map.
26. The roads serving the development shall be named by filing a completed Road Name Petition with the County Surveyors Office. Proof of any signage required by the Surveyor's Office must be provided to their office prior to filing the Parcel Map.
27. Prior to filing the Parcel Map, a letter shall be required from all agencies that have placed conditions on the map. The letter will state that "all conditions placed on the map by (that agency) have been satisfied." The letter is to be sent to the County Surveyor and copied to the Consultant and the Applicant.