

## **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 should be made:

### **FINDINGS FOR APPROVAL**

#### **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 Low-Density Residential (LDR) land use designation of the subject site as defined within General Plan Policy 2.2.1.2 because the LDR land use designation allows a maximum density of one dwelling unit per five acres and parcel sizes that range from 5.00 to 10.00 acres and the project allows three parcels 5.60, 5.84 and 7.64 acres in size.
- 2.2 The proposal is consistent with General Plan policies, including 2.2.5.3 (rezone) 2.2.5.21 (land use compatibility), 5.7.1.1 (emergency water supply), 6.2.2.2 (high wildland fire hazard), 6.2.3.2 (fire safe access), Policy 6.5.2.1 (Airport Noise Impacts), 7.3.3.4

(wetland impacts), 7.4.2.9 (biological corridors), Policy 7.4.1.5 (species conservation) and 7.4.4.4 (oak tree canopy retention and replacement). It has been determined that the project is consistent with the General Plan, because, as conditioned, the project provides adequate access, adequate water supply for fire protection, would be compatible with the surroundings land uses, considers the wetland and threatened species impacts, is mitigated for noise impacts to humans, and will not significantly impact Important Biological Resources.

### **3.0 ZONING FINDINGS**

- 3.1 With an approved rezone to Estate Residential Five Acre (RE-5), the parcels will be consistent with the Low-Density Residential (LDR) land use designation. The RE-5 zone district permits the proposed parcel sizes of 5.60, 5.84 and 7.64 acres under Section 17.28.210.A.
- 3.2 The proposed residential uses at the subject site are permitted by right under Section 17.28.190 (A). As proposed, and with an approved rezone, the project meets all applicable development standards contained within Section 17.28.210 of the Zoning Ordinance.

### **4.0 PARCEL MAP FINDINGS**

- 4.1 **The proposed tentative map, including design and improvements, is consistent with the General Plan** because all necessary improvements have been considered by the reviewing agencies to determine that, with an approved rezone to RE-5, this Tentative Parcel Map is consistent with the policies of the General Plan, as analyzed and described in the Staff Report and the General Plan Findings above.
- 4.2 **The proposed Parcel Map conforms to the applicable standards and requirements of the County's zoning regulations and Minor Land Division Ordinance** because as proposed, conditioned, and with an approved rezone to RE-5, the Tentative Parcel Map conforms to the development standards within the RE-5 zone district and the Minor Land Division Ordinance.
- 4.3 **The site is physically suitable for the proposed type and density of development because**, with an approved rezone to RE-5, the site is physically suitable for the proposed type and density of development. 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, the drainage swale area, 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.

- 4.4 **The proposed subdivision is not likely to cause substantial environmental damage** because the proposed Parcel Map is not anticipated to cause substantial environmental damage as after agency and staff review of the project, conditions and mitigations have been added which reduced the potential for the project to for causing significant effects on the environment to insignificant levels. The project site includes residential units with existing supporting access roadways, electrical, and telephone facilities available to the site. The other three resultant parcels will have shared access improvements and typical residential infrastructure improvements in areas of 0 to 10 percent slopes and devoid of woody vegetation.

### **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 exhibit marked Exhibit F 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 would constitute a violation of permit approval.

The project description is as follows:

- a. Rezone the entire 19.09-acre parcel currently identified by Assessor's Parcel Number 048-121-11 from Single Family Two-Acre Residential (R2A) to Estate Residential Five-Acre (RE-5), as shown in Exhibit F; and
- b. Tentative Parcel Map creating three single-family residential parcels 5.60, 5.84 and 7.64 acres in size from a 19.09-acre parcel, as shown in Exhibit F.

All three parcels shall be served by wells and onsite septic wastewater systems.

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.

#### **Condition from the Mitigated Negative Declaration**

The following mitigation measure is required as a means to reduce potential significant environmental effects to a level of insignificance:

2. **BIO-1: Pre-construction Survey Required:** If vegetation removal is conducted within the nesting period for most migratory bird species and nesting raptor species (between March 1 and August 15), a pre-construction survey for active bird nests shall be conducted by a qualified biologist. If vegetation removal activities are delayed or suspended more than one month after the pre-construction survey, the area shall be re-surveyed. If active bird nests are identified, vegetation removal in these areas shall be postponed until after the nesting season, or a qualified biologist has determined the young have fledged and are independent of the nest site. No known active nests shall be disturbed without a permit or other authorization from USFWS or CDFG.

**Monitoring Responsibility:** Planning Services.

**Monitoring Requirement:** The applicant shall conduct all construction activities outside the nesting season or perform a pre-construction survey and obtain all necessary permits prior to initiation of construction activities. This requirement shall be placed on the grading plans. Planning Services shall review the surveys prior to issuance of a grading permit.

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

3. **Wetland Non-Building Setback Line:** The 100-foot setback line, (50 feet from the centerline of the ephemeral drainage swale), shown on the previous Parcel Map PM38-94 shall be carried over to and recorded on, the subject Parcel Map. The applicant shall provide proof to Planning Services for approval that said line has been included, prior to filing the Parcel Map.
4. **Avigation and Noise Easement:** An Avigation and Noise Easement for all three parcels collectively shall be filed concurrent with the filing of the Parcel Map. The applicants shall submit a copy of the Avigation and Noise Easement to Planning Services for review and approval prior to said filing.
5. **Oak Canopy Loss Mitigation:** The applicant shall pay the full mitigation in-lieu fee for all oak canopy removed as part of road and infrastructure improvements. The mitigation fee shall be paid at a 1:1 ratio for 0.321-acre of oak canopy as required by the Oak Woodland Conservation Ordinance and shall be based on the fee established by the Board of Supervisors. The applicant shall provide to Development Services proof of payment of the mitigation in-lieu fee prior to issuance of a grading permit or removal of any oak trees.
6. **Map Time Limits:** The map shall remain in effect for three years from the date of approval. If the map has not been filed within this timeframe, an extension may be requested prior to expiration of the map. Appropriate fees shall be paid to process the time extension.

7. **Tentative Parcel Map Fees:** The applicant shall make the actual and full payment of Development Services Department processing fees for the Tentative Parcel Map application prior to filing the Parcel Map.
8. **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 Parcel Map filed until said fees are paid.
9. **Park In-Lieu Fee:** The applicant shall submit a request for Park-in-Lieu fee appraisal to Planning Services, with a check for \$150.00 made out to the El Dorado County Assessor. Upon completion of appraisal, the applicant must pay the park fee to the Development Services Department. A receipt showing compliance with this condition shall be submitted by the applicant to the Planning Services prior to filing the Parcel Map.
10. **Cultural and Historic Resources:** 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.

11. **Indemnity:** 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.

The developer and land owner 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.

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

## El Dorado County Department of Transportation

12. **Offsite Access:** ~~The proposed access road (Ivy Knoll Road offsite portion)~~ and Leaning Tree Road (from Ivy Knoll Road to Still Meadow Road) shall be designed consistent with Design Standard Plan 101C of the DISM and the 2007 CA Fire Code with a 20-foot wide roadway. The widening of the existing paved portion of the road shall be improved to the same paved surfacing, whereas the gravel section of Leaning Tree Road shall be improved to a gravel surface with the minimum structural sections in accordance to Design Standard Plan 101C of the DISM. 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.
13. **Easements:** All applicable existing and proposed easements shall be shown on the project plans.
14. **Signage:** The applicant shall install all necessary signage such as stop signs, street name signs, and/or "not a county maintained road" sign as required by the Department of Transportation prior to the filing of the parcel map. The signing and striping shall be designed and constructed per the latest version of the California Manual Uniform Traffic Control Devices (MUTCD).
15. **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.
16. **Common Fence/Wall Maintenance:** The responsibility for, and access rights for, maintenance of any fences and walls constructed on property lines shall be included in the Covenants, Conditions and Restrictions (CC&Rs).
17. **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.
18. **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.

19. **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 filed Parcel Map.
20. **Import/Export Grading Permit:** Any import, or export to be deposited or borrowed within El Dorado County, shall require an additional grading permit for that offsite grading.
21. **Grading Permit / Plan:** If more than 250 cubic yards of earth movement are required for improvements, the applicant shall submit a site improvement/grading plan prepared by a professional civil engineer to the DOT for review and approval. The plan shall be in conformance with the County of El Dorado "Design and Improvement Standards Manual", the "Grading, Erosion and Sediment Control Ordinance", the "Drainage Manual", the "Off-Street Parking and Loading Ordinance", and the State of California Handicapped Accessibility Standards. All applicable plan check fees shall be paid at the time of submittal of improvement plans. All applicable inspection fees shall be paid prior to issuance of a permit. The improvements and grading shall be completed to the satisfaction of the DOT or the applicant shall obtain an approved improvement agreement with security, prior to the filing of the Parcel Map.
22. **Grading Plan Review:** Grading and improvement plans shall be prepared and submitted to the El Dorado County Resource Conservation District (RCD) and the Department of Transportation. The RCD shall review and make appropriate recommendations to the County. Upon receipt of the review report by the RCD, the Department of Transportation shall consider imposition of appropriate conditions for reducing or mitigating erosion and sedimentation from the project. Grading plans shall incorporate appropriate erosion control measures as provided in the El Dorado County Grading Ordinance and El Dorado County Storm Water Management Plan. Appropriate runoff controls such as berms, storm gates, detention basins, overflow collection areas, filtration systems, and sediment traps shall be implemented to control siltation, and the potential discharge of pollutants into drainages.
23. **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.

24. **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.

25. **Drainage (Cross-Lot):** Cross lot drainage shall be avoided. When concentrated cross lot drainage does occur or when the natural sheet flow drainage is increased by the project, it shall be contained within dedicated drainage easements, and included in the County Service Area Zone of Benefit (ZOB), Home Owners Association, or other entity acceptable to the County. Any variations shall be approved by the County Engineer. This drainage shall be conveyed via closed conduit or v-ditch, to either a natural drainage course of adequate size or an appropriately sized storm drain system within the public roadway. The site plans shall show drainage easements for all on-site drainage facilities. Drainage easements shall be provided where deemed necessary prior to the filing of the final Parcel Map.
26. **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 Parcel Map.



27. **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.
28. **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 Parcel Map.

29. **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.
30. **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.

31. **Electronic Documentation:** Upon completion of the improvements required, and prior to acceptance of the improvements by the County, the developer will provide a CD to DOT with the drainage report, structural wall calculations, and geotechnical reports in PDF format and the record drawings in TIF format.
32. **TIM Fees:** The applicant shall pay the traffic impact mitigation fees at issuance of building permit.

**El Dorado County Fire Protection District (Fire District)**

33. The applicant shall submit a review fee to the District of \$150.00 prior to filing the Parcel Map.
34. The applicant shall improve Ivy Knoll Drive to the minimum fire apparatus access road standard. Fire Apparatus access roads shall have an unobstructed width of not less than 20 feet and shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all weather driving capabilities.
35. The applicants shall improve Leaning Tree Road from Ivy Knoll Road to Still Meadow road to the minimum fire apparatus access road standard. Fire Apparatus access roads shall have an unobstructed width of not less than 20 feet and shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all weather driving capabilities and capable of supporting 40,000 pounds.
36. A Notice of Restriction (NOR) shall be filed with the final Parcel Map which stipulates that the Fire District and Cal Fire approved Wildland Fire Safe Plan wildfire mitigation measures, prepared by William Draper dated April 13, 2010 shall be implemented. The NOR shall be submitted to El Dorado County Fire Protection District for review, and subsequent approval, prior to filing of the Parcel Map.

**Environmental Management Department – Environmental Health Division**

37. Prior to filing the Parcel Map, each parcel shall have a safe and reliable water supply. If wells are used for the water supply to each parcel, each well shall meet the criteria of Water Supply Policy 800-02 standards. Proof of compliance with said condition shall be received by the Division prior to filing the Parcel Map.

**County Surveyor's Office**

38. All survey monuments shall be set prior to filing the Parcel Map.
39. The applicants 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 of the El Dorado County Subdivisions Ordinance.
40. Prior to filing the Parcel Map, a letter will be required from all agencies that have placed conditions on the map. The letter will state that “all conditions placed on P10-0004 by (that agency) have been satisfied.” The letter is to be sent to the County Surveyor and copied to the Consultant and the Applicant.