

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



**Agenda of:** August 13, 2020

**Staff:** Tom Purciel

**REZONE/TENTATIVE PARCEL MAP**

**FILE NUMBER:** Z18-0009/P18-0011/Rancho Victoria

**OWNER/APPLICANT:** Jeff Sweigart

**REQUEST:**

- 1) Rezone from Rural Lands, 40-Acre (RL-40) to Rural Lands, 20-Acre (RL-20); and
- 2) Tentative Parcel Map dividing an 81.81 acre property into three parcels ranging in size from 26.7 acres to 33.13 acres.

**LOCATION:** Located on the north side of South Shingle Road, approximately 550 feet west of the intersection with Latrobe Road, in the Latrobe area, Supervisorial District 2. (Exhibits A, B, C)

**APN:** 087-010-035 (Exhibit D)

**ACREAGE:** 81.81 Acres

**GENERAL PLAN:** Rural Residential (RR) (Exhibit E)

**ZONING:** Rural Lands, 40-Acre (RL-40) (Exhibit F)

**ENVIRONMENTAL DOCUMENT:** Mitigated Negative Declaration

**RECOMMENDATION:** Staff recommends the Planning Commission forward the Board of Supervisors the following actions:

1. Adopt the Mitigated Negative Declaration based on the Initial Study prepared by staff;
2. Adopt the Mitigation Monitoring Reporting Program in accordance with California Environmental Quality Act Guidelines Section 15074(d), incorporated as Conditions of Approval;
3. Approve Rezone Z18-0009 based on the Findings as presented;
4. Approve Tentative Parcel Map P18-0011, based on the Findings and subject to the Conditions of Approval as presented.

## **EXECUTIVE SUMMARY**

Approval of Rezone Z18-0009 and Tentative Parcel Map P18-0011 would allow a rezone from Rural Lands, 40-Acre (RL-40) to Rural Lands, 20-Acre (RL-20) and a Tentative Parcel Map for a three-lot residential subdivision consisting of one 33.13 acre parcel (Parcel 1C), one 28.9 acre parcel (Parcel 1B) and one 26.7 acre parcel (Parcel 1A) from an existing 81.81-acre parcel. Proposed parcel 1A is currently developed with an existing 1,200 square-foot residence and associated well and septic system. Proposed Parcels 1B and 1C are currently undeveloped and would be served by domestic wells and septic systems with electric service by Pacific Gas and Electric (PG&E). Access to the proposed lots would be provided via private driveways from Victoria Way, a paved non-County maintained roadway. The existing parcel is zoned Rural Lands, 40-Acre (RL-40) and designated in the General Plan as Rural Residential (RR). As proposed and conditioned, all proposed parcels will meet the required development standards for new lots in the RL-20 zone including minimum lot size, lot frontage, and building setbacks for the existing structure on Proposed Lot 1A. Staff has determined that the project is consistent with the General Plan Rural Residential (RR) Land Use Designation and the RL-20 zone, as well as other applicable County General Plan policies, Zoning Ordinance and Subdivision Ordinance requirements as discussed in the Findings.

## **OTHER PROJECT CONSIDERATIONS**

### **Consistency with Agricultural-Related General Plan Policies**

The El Dorado County Agricultural Commission is an advisory body to the Planning Commission and the Board of Supervisors. Agricultural Department staff initially presented the project to the Commission on November 14, 2018, for a recommendation regarding the project's consistency with agricultural-related General Plan policies, including Policy 8.1.4.1 (The effect of the project on adjacent lands zoned or designated for agriculture), Policy 8.1.3.5 (The effect of the project on existing or potential agricultural uses on the project site), Policy 8.1.3.1 (minimum 10-acre parcel sizes when adjacent to agricultural zoned or designated lands), Policy 8.1.2.2 (40-acre minimum parcel sizes for suitable grazing land) and Policy 2.2.1.2 (the General Plan Rural Residential Land Use Designation). The Commission did not identify any significant issues or concerns regarding the project's consistency with most agricultural-related General Plan policies, as listed above. However, by a vote of 3-3, the Commission's motion to recommend approval of the project failed due to individual commissioner disagreements on the project's consistency with Policies 8.1.2.2 and 8.1.4.1. For details, refer to the Commission memo to Planning staff,

dated November 14, 2018, attached as Exhibit G.

On September 12, 2019, Agricultural Department staff recommended the Commission re-review the project to clarify their previous recommendation. After detailed discussion, the Commission still failed to reach consensus on a recommendation for Policies 8.1.2.2 and 8.1.4.1 based on disagreements regarding the project's effects on existing or potential agricultural uses in the vicinity of the project site. By a vote of 3-3, the Commission's motion to recommend denial of the project failed. For details, refer to the Commission's memo to planning staff dated September 12, 2019, attached as Exhibit H.

As the Commission did not provide clear recommendation on the project, it could not be determined that the project would not intensify existing conflicts or add new conflicts between adjacent residential areas and agricultural activities. Further, it could not be determined that the project would not significantly reduce or destroy the buffering effect of existing large parcel sizes adjacent to agricultural lands (Policy 8.1.4.1). In addition, it could not be determined if the project parcel is currently capable of sustaining commercial grazing of livestock (Policy 8.1.2.2).

Planning Department staff acknowledges the lack of clear recommendation from the Agricultural Commission. However, the General Plan is intended to be comprehensively applied with no single component standing alone in the review and evaluation of the project (General Plan Introduction, p. 7). As the Agricultural Commission failed to reach consensus on the project's consistency with Policies 8.1.2.2 and 8.1.4.1 due to individual commissioner disagreements on how these policies should apply to the project, staff concludes that there was no substantial evidence that the project would negatively affect existing or proposed agricultural uses on or adjacent to the project site, and that the project is overall consistent with applicable agricultural General Plan policies. The General Plan allows for 25 to 30-acre parcel sizes as proposed because the land is designated Rural Residential (10-acre minimum), is surrounded on three sides by non-agricultural lands, and the project complies with other General Plan Policies designed to protect agricultural land, including Policy 8.1.3.1 requiring 10 acre minimum parcel sizes adjacent to agriculturally zoned lands and Policy 8.1.3.2 requiring a 200 foot setback for agriculturally incompatible uses adjacent to agriculturally zoned lands. These policies have been developed specifically to minimize potential conflicts between adjacent residential areas and agricultural activities. Therefore, staff recommends the Planning Commission make a recommendation to the Board of Supervisors that the project be found consistent with applicable agricultural-related General Plan policies, as more fully described in the Findings section below.

## **BACKGROUND/HISTORY**

The project parcel was created in 2014 as Parcel 6 of Parcel Map No. 51-64, recorded on November 20 of that year (Exhibit I). In 2004, the project parcel was included as part of a previous 44-lot rezone and Tentative Subdivision map application (Z04-0002/TM04-1387, Rancho Victoria Subdivision). However, on February 9, 2011, the applicant withdrew the application and the prior application is now considered null and void.

**EXISTING CONDITIONS/SITE CHARACTERISTICS**

The project parcel consists of 81.81 acres. The site contains rolling topography with annual grasses, rocky soils and few widely scattered native oak trees, primarily located on proposed parcel 1A. Slopes range from approximately two percent to approximately 25 percent. The southeast portion of the existing lot (proposed Parcel 1A) is currently developed with a 1,200 square foot residence, domestic well and septic system. The parcel is zoned Rural Lands, 40-Acre (RL-40) with a corresponding General Plan land use designation of Rural Residential (RR). Access to the proposed parcels would be provided via private driveways from Victoria Way, an existing paved non-County maintained roadway (Exhibits C, E, F).

**Adjacent Land Uses**

The proposed parcels would be similar in character, and compatible with, existing surrounding parcels and uses including a public school, a private cemetery, and large lot rural residential and agricultural parcels. Adjacent land uses and existing improvements are shown in Figure 1 below.

**Figure 1. Adjacent Land Uses and Existing Improvements**

	<b>Zoning</b>	<b>General Plan</b>	<b>Existing Land Use/Improvements</b>
<b>Site</b>	RL-40	RR	Existing 1,200 square foot residence, domestic well and septic system near southeast portion of project parcel; remaining land undeveloped.
<b>North</b>	RL-40	RR	Historic Latrobe Cemetery/Large lot residential and agricultural uses
<b>South</b>	RL-40	PF and RR	Public School/Undeveloped
<b>East</b>	RE-10 and AG-40	RR and AL	Single family residences/Large animal grazing
<b>West</b>	RL-20 and RL-40	RR	Large lot residential and agricultural uses

**PROJECT DESCRIPTION**

The project consists of two entitlement requests, Rezone Z18-0009 and Tentative Parcel Map P18-0011, for an existing 81.81-acre parcel: 1) a rezone from Rural Lands, 40-Acre (RL-40) to Rural Lands, 20-Acre (RL-20) and 2) a Tentative Parcel Map to create three parcels consisting of 26.7 acres, 28.9 acres and 33.13 acres (proposed Parcels 1A, 1B and 1C, respectively). Proposed parcel 1A, consisting of 26.70 acres, is currently developed with an existing 1,200 square-foot residence and associated well and septic system. Proposed Parcels 1B and 1C are currently undeveloped and would be served by domestic wells and septic systems with electric service by Pacific Gas and Electric (PG&E). Access to the proposed lots would be provided via private driveways from Victoria Way, a paved non-County maintained roadway.

Required off-site improvements would be limited to minor shoulder improvements to South Shingle Road from the intersection with Latrobe Road to the project site. Project related roadway improvements would be limited to minor off-site shoulder improvements to South Shingle Road, a County maintained roadway, and Victoria Way to meet minimum road standards for vehicular and emergency vehicle access to the project site, as verified by the El Dorado Hills Fire Department. Grading for residential driveways and home sites on Parcels 1B and 1C are not proposed at this time and would be verified subject future building and grading permits for the new parcels. No oak trees will be removed as part of this project.

## CONSISTENCY ANALYSIS

**General Plan:** The project is consistent with all applicable General Plan policies including Policy 2.2.1.2. (Rural 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), Policy 5.7.2.1 (fire protection in Rural Regions), Policy 6.2.3.1 (adequate emergency water flow, fire access, firefighting personnel and equipment), Policy 6.2.3.2 (adequate access for emergencies) Policy 7.4.4.4 (impacts to oak resources), Policy 8.1.2.2 (40-acre minimum parcel sizes for suitable grazing lands), Policy 8.1.3.1 (minimum 10-acre parcel sizes when adjacent to agricultural zoned or designated lands), Policy 8.1.3.2 (200-foot building setback for agriculturally incompatible uses), Policy 8.1.3.5 (The effect of the project on existing or potential agricultural uses on the project site) and Policy 8.1.4.1 (The effect of the project on adjacent lands zoned or designated for agriculture). Further details are discussed in the Findings section below.

**Zoning Ordinance:** Staff has determined that the project is consistent with all applicable standards and requirements of Title 130 of the County Ordinance Code (Zoning Ordinance). The project parcel is currently zoned Rural Lands, 40-Acre (RL-40) and would be rezoned to Rural Lands, 20-Acre (RL-20) with approval of the project. Accordingly, the project has been analyzed in accordance with all applicable development standards for the RL-20 zone district. As proposed, the project parcels will conform with the required minimum lot size, lot frontage, building setbacks (for the existing structure), and other applicable development standards for new lots in the RL-20 zone district as shown below and more fully described in the Findings.

**Applicable Development Standards from Table 130.21.030  
 (Agricultural, Rural and Resource Zones Development Standards)**

<b>Development Attribute</b>	<b>(Proposed) RL-20 Zone District</b>	<b>Proposed Parcel 1A</b>	<b>Proposed Parcel 1B</b>	<b>Proposed Parcel 1C</b>
Minimum Lot Size	10 acres or as designated	26.70 Acres	28.90 Acres	33.13 Acres
Setbacks (in feet) Agricultural (ag) structure, front, secondary front, sides, rear	50	N/A*	N/A*	N/A*
Non-ag structure, Front, secondary front, sides, rear	30	Consistent	N/A*	N/A*
Building Height (in feet) Ag structure	50	N/A*	N/A*	N/A*
Non-ag structure	45	Consistent	N/A*	N/A*
Lot Frontage (in feet)	150	> 800'	>1,500'	>800'

\*No Structures Proposed

**County Subdivision Ordinance:** Staff has determined the project is consistent with all applicable standards and requirements of the County Subdivision Ordinance (Title 120 of the County Ordinance Code) for Tentative Parcel Maps including consistency with the General Plan, consistency with zoning regulations and the Minor Land Division Ordinance, and consistency with other specific findings for subdivision map approval. Such findings include documentation that the site is physically suitable for the proposed type and density of development and documentation that the proposed subdivision is not likely to cause substantial environmental damage. Further details are discussed in the Findings section below.

**AGENCY COMMENTS**

**Comments From Local and County Agencies**

The project was distributed to all applicable local, County, and state agencies for review and comment. Comments were received from several County departments and local agencies including the County Department of Transportation (DOT), the El Dorado Hills Fire Department, the County Air Quality Management District (AQMD), the County Environmental Management Department and the County Surveyor’s office. None of these local agencies expressed any site-specific issues or concerns regarding the project and recommended standard conditions of approval which have been applied to the project.

**Comments From Local Native American Tribes (AB 52 Consultation)**

Local Native American tribes were also notified of the project pursuant to the requirements of Assembly Bill 52 (AB52) which requires Native American outreach. Tribes notified included the El Dorado County Wopumnes Nisenan-Mewuk Nation, the Wilson Rancheria, the Ione Band

of Miwok Indians, the Nashville-El Dorado Miwok, the United Auburn Indian Community of the Auburn Rancheria, the Shingle Springs Band of Miwok Indians and the Washoe Tribe of Nevada and California. Of the above tribal organizations notified of the project, the Shingle Springs Band of Miwok Indians and the Wilton Rancheria submitted consultation requests pursuant to AB52 and also requested any completed record searches and cultural resource surveys completed in or around the project area. In response, staff forwarded those confidential documents to both tribes and reached out to both organizations to follow up with any further information each tribe might require. On March 9, 2020, a tribal representative from the Wilton Rancheria visited the site and verbally confirmed that, with incorporation of staff's proposed mitigation measures to protect Tribal Cultural Properties (TCPs), significant impacts to TCPs would not be expected. However, the Shingle Springs Band of Miwok Indians (Band) did not respond to staff's outreach to tribal representatives for further comment, including staff's emails to the Shingle Springs Band sent on March 12, 2020 and May 21, 2020 (Exhibit K), confirming the submittal of cultural resources information to the tribe and requesting a follow-up response by the Band. Since that date, staff also made multiple attempts to contact the Band, including a minimum of one phone call weekly to the contact number shown on the tribes' consultation request letter dated January 9, 2020. As of the date of this report, staff had not received a response. Accordingly, pursuant to Public Resources Code Section 21084.3(b), which allows the County to develop appropriate mitigation measures to protect known resources in the absence of tribal consultation, staff worked closely with the applicant's cultural resource specialist (Historic Resource Associates) in development of appropriate mitigation measures to avoid or minimize any significant adverse impacts to Tribal Cultural Resources.

## **PUBLIC OUTREACH**

No formal public outreach was conducted and a public outreach plan was not required for this project pursuant to the County Subdivision 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 120.24.085 of the Subdivision Ordinance (Notice Requirements and Procedure). In addition, the project was duly noticed for a Planning Commission public hearing with a public notification range of 1,000 feet from the boundaries of the project parcel and legal advertisement was published in applicable local newspapers. Project notification was also sent to the Planning Commission email subscription list and posted on the Planning Services Planning Commission webpage.

## **ENVIRONMENTAL REVIEW**

The Initial Study (Exhibit L) identified one potentially significant impact to historic resources and one potentially significant impact to archaeological resources. However, any potential significant impacts to these resources would be avoided or reduced to a less-than-significant level by mitigation measures incorporated into the project. To ensure compliance with required mitigation measures, a Mitigation Measures Agreement (MMA) will be required, signed by both the County and applicant, to ensure the applicant will comply with the County Mitigation Monitoring and Reporting Program (MMRP). For this project, the MMRP incorporates two specific mitigation measures (Mitigation Measures No. CUL-1 and CUL-2), included as staff report Conditions of Approval No. 5 and 6. The project MMRP will be adopted in conjunction

with the Mitigated Negative Declaration. Staff has prepared an Initial Study and has determined that there is no substantial evidence that the project would have a significant effect on the environment, therefore a Mitigated Negative Declaration is being recommended.

In accordance with CEQA, the filing of a Notice of Determination (NOD) for the Mitigated Negative Declaration is required within five working days from the project approval, subject to a \$50.00 recording fee.

In accordance with California Fish and Game Code Section 711.4, the project is subject to a fee of \$2,406.75 after approval, but prior to the County filing the Notice of Determination of the project. This fee plus the \$50.00 filing fee, is to be submitted to Planning Services and must be made payable to El Dorado County. The \$2,406.75 is forwarded to the State Department of Fish and Wildlife and is used to help defray the cost managing and protecting the State's fish and wildlife resources.



## SUPPORT INFORMATION

### Attachments to Staff Report:

Findings

Conditions of Approval

Exhibit A.....	Location Map
Exhibit B.....	Vicinity Map
Exhibit C.....	Site Aerial Photo
Exhibit D.....	Assessor's Parcel Page
Exhibit E.....	General Plan Land Use Map
Exhibit F.....	Zoning Map
Exhibit G.....	Agricultural Commission Memo to Staff, November 14, 2018
Exhibit H.....	Agricultural Commission Memo to Staff, September 12, 2019
Exhibit I.....	Recorded Parcel Map No. 51-64
Exhibit J.....	Tentative Parcel Map
Exhibit K.....	County Email Correspondence to the Shingle Springs Band of Miwok Indians
Exhibit L.....	Proposed Mitigated Negative Declaration and Initial Study