

**EL DORADO COUNTY DEVELOPMENT SERVICES
PLANNING COMMISSION
STAFF REPORT**



Agenda of: May 22, 2008
Item No.: 8.
Staff: Gordon Bell

FILE NUMBER: A08-0004/Z07-0026/P07-0025

APPLICANT: Wesley Hagstrom

AGENT: Ted Woessner (Carlton Engineering)

REQUEST: The project consists of the following requests:

- 1) Amendment to the General Plan Land Use Designation from Rural Residential (RR) and Commercial (C) to Rural Residential (RR)
- 2) Change in zoning from Estate Residential Ten-acre (RE-10), Estate Residential Five-acre (RE-5), Commercial-Platted Lands (C-PL) and Exclusive Agricultural (AE) to Estate Residential Ten-acre (RE-10)
- 3) Tentative parcel map creating four (4) lots ranging in size from 20 to 47.22 acres

LOCATION: On the north side of Rattlesnake Bar Road, approximately 5.00 miles southwest of State Route 49, in the Pilot Hill area, Supervisorial District IV. (Exhibit A)

APN: 104-100-67

ACREAGE: 129.43 acres

GENERAL PLAN: Rural Residential (RR) and Commercial – Platted Lands (C-PL)
(Exhibit C)

ZONING: Estate Residential Ten-acre (RE-10), Estate Residential Five-acre (RE-5), Commercial (C), and Exclusive Agricultural (AE) (Exhibit D)

ENVIRONMENTAL DOCUMENT: Mitigated Negative Declaration (MND)

SUMMARY RECOMMENDATION: Recommended Conditional Approval

STAFF ANALYSIS

Staff has reviewed the project for compliance with the County's regulations and requirements. An analysis of the proposal and issues for Planning Commission consideration are provided in the following sections.

Project Description: The project request is for a General Plan Amendment, Rezone, and Tentative Subdivision Map. Discussed below are important project characteristics.

General Plan Amendment: Request for a General Plan Amendment to change the General Plan Land Use Designation from Rural Residential (RR) & Commercial (C) [Approximately 10 acres] to Rural Residential (RR).

Rezone: Request for a rezone to change the zoning of APN 104-100-67 from RE-10 (Estate Residential Ten-Acres), RE-5 (Residential Five-Acres), C (Commercial) and AE (Exclusive Agricultural) to RE-10 (Estate Residential Ten-Acres). *Current zoning on the parcel consists of RE-10 (90 acres), RE-5 (29.7 acres), Commercial (9.94 acres), and Exclusive Agricultural (0.3 acres).*

Tentative Parcel Map: Request to divide a 129.43-acre parcel into 4 parcels ranging in size from 20 to 49 acres. Parcel sizes would be as follows: Parcel 1- 41.22 acres, Parcel 2 – 47.77 acres, Parcel 3 – 20.00 acres, and Parcel 4 – 20.91 acres.

Building Envelopes: The parcel map also includes designated building envelopes on each of the parcels. Building envelopes are designated in areas that have less than 30 percent slopes and outside of setbacks from watercourses (ephemeral stream and drainages are provided a 55-foot setback each side from top of bank), and water bodies (110-foot setback around pond boundaries).

Conservation Easement: The parcel map also includes an 8.2-acre area designated as a conservation easement for the purposes of oak tree replacement. This area is intended to allow for mitigation of the removal of oak trees during development activities. Replacement oak trees are to be located in this conservation easement consistent with General Plan Policy 7.4.4.4.a. This conservation easement may be reduced at the discretion of Planning Commission should the applicant/property owner demonstrate (through the provision of appropriate oak tree canopy reports and appropriate tree preservation plans) that actual disturbed oak woodland area will be significantly less than the proposed 8.2-acre conservation easement.

Private Water/Private Septic Systems: The project would be served by individual wells on each of the parcels. There is an existing well on proposed Parcel 4. This well currently serves the home on Parcel 3; however, a new well would be drilled to serve the existing home. Pump tests done on the existing well indicates that there is adequate water in the area to serve the additional parcels.

The existing home on proposed Parcel 3 is served by an existing septic system. Individual septic systems would be developed for future residences on the proposed parcels. A wastewater disposal study prepared by the applicant indicates that there are suitable areas and soil types on each of the parcels to develop a septic system. These septic systems would be located within designated building envelopes.

Road Improvements: Access for parcels 1, 3, and 4 will be taken off of Burkett Lane, a dead-end private road that serves 10 parcels north of the project parcel. In accordance with Fire Department and Department of Transportation Design Guidelines, this road will be developed to a 20-foot width (18-foot travel width with one-foot shoulders). Access for Parcel 2 will be taken from Rattlesnake Bar Road. Given that Burkett Lane will exceed the 2,640-foot road length guideline established by Department of Transportation standards, a design waiver has been requested.

Site Description: The project site is situated between 920 and 1,440 feet elevation on property that encompasses the headwaters and both sides of an ephemeral tributary of the North Fork of the American River, which it joins approximately three quarters of a mile northwest of the project site. Slopes on-site vary from nearly flat alongside Burkett Lane to 57 percent east of the creek near the center of the parcel; slopes east of the creek average 24 percent and those west of the creek average 37 percent.

There are six seasonal drainages on the parcel that contribute water to the ephemeral tributary. There are also two small reservoirs located on the drainage, and a third water impoundment which was formed in an ATV track within a swale below the existing house.

Soils on the site are classified in the Auburn, Boomer and Sobrante series. The soil types are Auburn silt loam (AwD), Auburn very rocky silt loam (AxD and AxE), Boomer very rocky loam (BkE) and Sobrante silt loam (SuC). Boomer rocky loam is the predominant soil type on the site replaced by Auburn soils outside of the main ephemeral drainage.

Vegetation on the project site consists of three series: Mixed oak woodland, Ponderosa pine, and annual grassland. Mixed oak woodland is the predominant vegetation found on the parcel, replaced by Ponderosa pine woodland within the steepest ravines.

There is an existing residence located in the southwest corner of the parcel approximately 200 feet north of the intersection of Burkett Lane and Rattlesnake Bar Road. Burkett Lane provides access to the existing residence, and ten (10) parcels north of the site. A dirt road bisects the parcel from south to north along the ephemeral drainage. This road provides access to five (5) parcels north of the site.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	RE-10 (90 acres), RE-5 (29.7 acres), C (9.94 acres), AE (0.3 acres)	RR, C	Rural residential/Single family residence
North	RA40	RR	Rural residential/Single family residence
South	RE10, AE	RR	Rural residential/Single family residence
East	RE10	RR	Rural residential/Single family residence
West	RA20, RE10	RR	Rural residential/Single family residence

Discussion: The project site is surrounded by low density, rural residential development. This includes 5-acre parcel sizes to the east and to the south, 10-acre and larger parcels to the west, and 30-acre and large parcels to the north. The majority of the parcels in the surrounding area are undeveloped at this time. Parcels are primarily rural residential in nature, with single-family dwellings and appurtenant structures. There is little to no agricultural use in the immediate vicinity due to the steep terrain and dense vegetative cover.

General Plan: The project includes a request for a General Plan Amendment from Rural Residential (RR) and Commercial-Platted Lands (C-PL) to Rural Residential. The proposed General Plan amendment would allow the property's land use designation to be consistent with surrounding land use designations which are all rural residential. Specifically, the land use designation amendment and rezone of the 9.94-acre portion of the site from C-PL and C respectively to RR and RE-10 respectively will eliminate an inherent General Plan and zone inconsistency since commercial is not consistent within the Rural Region Planning Concept area.

Policy 2.1.1.7 directs that development be limited in some cases until such time as adequate roadways, utilities, and other public service infrastructure becomes available and wildfire hazards are mitigated. Emergency road access would be conditioned to be improved to minimum DOT, Caltrans and Fire Safe standards prior to filing the map. The El Dorado County Fire Protection District has conditioned the project to meet their fire safe requirements prior to filing the parcel map. Power and phone are onsite. Future property owners will utilize individual wells to provide domestic water. They will be required to demonstrate that adequate water exists prior to issuance of building permits for residences.

Policy 2.2.5.21 directs that new development be compatible with the surrounding neighborhood. The three new parcels would be in keeping with the General Plan intended development pattern expected in lands designated as Rural Residential and would be consistent with the dominant pattern of parcel development for surrounding areas which are all rural residential in nature.

Policy 5.7.1.1 directs that the applicant demonstrate that adequate emergency water supply, storage, conveyance facilities, and access for fire protection either are or would be provided concurrent with development. The project would be required to meet the required minimum fire flow requirements of the El Dorado County Fire Protection District which would be reviewed and approved by them prior to filing the final parcel map.

Policy 6.2.3.2 directs that the applicant demonstrate that adequate access exists, or can be provided to ensure that emergency vehicles can access the site and private vehicles can evacuate the area. The project will be served by Burkett Lane and Rattlesnake Bar Road, both dead-end roads. Both roads will be improved to Fire Department and Department of Transportation standards. However, the length of Burkett Lane exceeds that allowed by the DOT. A Design Waiver has been requested to allow the road to exceed the 2,640-foot standard. The applicant will be required to prepare a Fire Safe Plan to be reviewed and approved by the El Dorado County Fire Protection District. Since Burkett Lane will only be serving two additional parcels than what it already serves, and Rattlesnake Bar Road will only serve one additional parcel, the impact is not expected to be significant. The Design Waiver request is supported by the El Dorado County Department of Transportation.

Policy 7.4.4.4 - Oak Canopy Retention: The proposed project would impact oak woodland habitat, which pursuant to General Plan Policy 7.4.4.4 requires retention and replacement of the affected habitat. The project would result in varying degrees of disturbance to oaks and other woodland, depending on the scope of future improvements such as building pads and roads. The applicant has only analyzed potential impacts to oak trees as a result of the proposed widening of Burkett Lane to Fire Department and DOT standards. The applicant has concluded that approximately fifteen oaks (3 Live Oaks and 12 Black Oaks) would be removed and two cedars as a result of the widening of Burkett Lane on Parcel 1 (10 trees to be removed) and on Parcel 4 (5 trees to be removed).

Future development activities (other than the proposed road improvements discussed above) that would be allowed a result of the proposed project would include grading for roads/driveways, utility installation, building pads, fences, etc. This development has the potential to result in oak tree removal. Because the applicant has designated building envelopes on the parcel, which will limit said development activities to these areas, it is possible to estimate a worst-case scenario for tree removal in lieu of an oak tree canopy report and tree preservation plan. Given that the majority of the woodland area within proposed building envelopes is located on the western portion of the property, an assumption is made that if the largest building envelope on Proposed Parcel 2 is utilized then approximately 6.7 acres of woodland area would be disturbed. Building envelopes on proposed parcels 1 and 4 are located outside of significant woodland areas, and are not expected to result in significant oak tree removal, if at all. Proposed Parcel 3 is already developed, and thus no development activities other than road improvements are expected to occur on that parcel. Based on a worst-case scenario of 6.7 acres of woodland area to be disturbed on Proposed Parcel 2 and contingency to account for minor tree removal on other parcels, the applicant has designated an area for oak tree replacement on the parcel map (See Exhibit G). This area is required to be maintained as a conservation easement solely for the purposes of oak tree mitigation. Because development activities may result in a much smaller

area of oak tree disposal than that proposed in the conservation easement, the applicant does have the option of revising the parcel map at a later date to reduce the size of the conservation easement should they provide adequate documentation to Planning Services. However, this would be a discretionary action.

Development on Parcel 2 has the potential to require significant tree removal as noted above. The applicant has designated two building envelopes on this parcel, which would allow for more tree disturbance than that discussed above. For that reason, mitigation requiring the future property owner to limit development activities to only one of the proposed building envelopes would ensure that tree removal not exceed guidelines for retention set forth in Option A, and also ensure that the proposed conservation easement is adequate in size to mitigate potential impacts.

Policy 7.4.2.9 - Important Biological Corridor: The proposed project is located within an Important Biological Corridor as defined in El Dorado County General Plan Policy 7.4.2.9. Guidelines in Policy 7.4.2.9 state: “Lands located within the overlay district shall be subject to the provisions listed in the table below.” The table describes the guidelines and how the project intends to meet these guidelines:

Guideline	Project Design Feature
Increased minimum parcel size	The project proposes a general plan amendment and rezone to a 10-acre minimum parcel size. However, parcel sizes proposed by the parcel map all exceed 20 acres.
Higher canopy-retention standards and/or different mitigation standards for oak woodlands	The applicant has proposed building envelopes on Parcels 1, 2, and 4 which would limit oak tree disturbance and maintain canopies in excess of that require by General Plan policy 7.4.4.4. Building envelopes are generally situated in areas that are already cleared or have minimum oak tree canopies. Mitigation requiring project development in these building envelopes is required.
Lower thresholds for grading permits	Building envelopes required as part of project mitigation will minimize grading by limiting development to areas of less than 30% slope.
Higher wetlands/riparian retention standards and/or more stringent mitigation requirements for wetland/riparian habitat loss	Building envelopes are established outside of all wetland/riparian areas. No wetland/riparian habitat loss will occur as a result of the project.
Increased riparian corridor and wetland setbacks	Building envelopes have been established outside of a 110 foot setback for the ponds on site, and 55 feet for all water channels on site.
Greater protection for rare plants (e.g., no disturbance at all or disturbance only as recommended by U.S. Fish and Wildlife Service/California Dept. of Fish & Game).	No rare plants were found on the project site, nor does it have soils suitable for listed species known to inhabit the Pine Hill area.
Standards for retention of contiguous area/large expanses of other (non-oak or non-sensitive) plant	With designation of building envelopes, large areas, primarily the central portion of the site along

Guideline	Project Design Feature
communities	the valley bisecting the project site, will be maintained as a plant community.
Building permits discretionary or some other type of “site review” to ensure that canopy is retained	Prior to issuance of building permits, the applicant shall be required to provide the County with an Oak Tree Evaluation to ensure that canopy is retained in accordance with General Plan Policy 7.4.4.4.
More stringent standards for lot coverage, floor area ratio (FAR) and building height	Project approval would be contingent upon development being limited to proposed building envelopes only. This condition is more stringent than that typically required for parcel maps.
No hindrances to wildlife movement (e.g., no fences that would restrict wildlife movement)	Mitigation requiring fencing to be limited to areas around barns and or homes for the purposes of protecting livestock or landscaping is required as part of project approval.

Conclusion: The project has been reviewed in accordance with the El Dorado County 2004 General Plan policies and it has been determined that the project would be consistent with all applicable policies of the General Plan. Findings of consistency with the General Plan are provided in Attachment 2.

Rezone: The project request includes a rezone which pursuant to **General Plan Policy 2.2.5.3** requires that the following criteria to be evaluated prior to approval of a Rezone request:

1. *Availability of an adequate public water source or an approved Capital Improvement Project to increase service for existing land use demands;*

Discussion: The project would not utilize a public water source, but will instead be served by private wells.

2. *Availability and capacity of public treated water system;*

Discussion: The project would not connect to public treated water systems.

3. *Availability and capacity of public waste water treatment system;*

Discussion: The project would not connect to public wastewater treatment systems.

4. *Distance to and capacity of the serving elementary and high school;*

Discussion: The project site is located within the Black Oak Mine School District. The District is currently operating over capacity but has indicated they could accommodate the additional students generated by the proposed project. Prior to building permit issuance for each of the proposed lots, payment of school fees would be required.

5. *Response time from nearest fire station handling structure fires;*

Discussion: The project site is located within the El Dorado County Fire Protection District. The nearest fire station is located in Pilot Hill at 4731 Pedro Hill Road, approximately 4.2 miles from the project site. The District has reviewed the project and has determined with the required conditions of approval, the District would be able to provide adequate fire protection to the site.

6. *Distance to nearest Community Region or Rural Center;*

Discussion: The closest rural center is Pilot Hill located approximately 4 miles northeast of the project site.

7. *Erosion hazard;*

Discussion: The grading necessary for the onsite and offsite road improvements and building pads would be required to comply with applicable grading and erosion control policies established by the County. The Department of Transportation would review the grading plans to verify conformance with established policy. Adherence to these rules would ensure that erosion hazards would be prevented. In addition, building envelopes have been designated that would prohibit grading on slopes on 30 percent slopes or greater, further reducing potential erosion hazards.

8. *Septic and leach field capability;*

Discussion: The project would be served by private septic wastewater facilities. A Wastewater Disposal Study has been prepared by the applicant that indicates that adequate area and soil types exist on each of the parcels for wastewater disposal. These areas are located within proposed building envelopes. The El Dorado County Department of Environmental Health would be required to review septic reports for individual homes prior to issuance of building permits.

9. *Groundwater capability to support wells;*

Discussion: The project would be served by private wells on each of the parcels. An existing well on proposed parcel 4 currently serves the existing residence. A drawdown test performed on this well indicates that there is adequate water in the area for domestic water supply. Prior to issuance of building permits for individual homes on each of the proposed parcels, the property owners will be required to demonstrate that adequate water supply exists for each parcel.

10. *Critical flora and fauna habitat areas;*

Discussion: The project site is not located within a rare plant mitigation area. A biological study prepared for the proposed project did not identify any critical flora or fauna habitat areas onsite.

11. *Important timber production areas;*

Discussion: The project site does not contain or is adjacent to any important timber production areas.

12. *Important agricultural areas;*

Discussion: The project site is not located adjacent to any important agricultural areas. The El Dorado County Agricultural Commissioner's office reviewed the project on August 15, 2007 and recommended approval of the project based on the fact that the project was not adjacent to ongoing agricultural operations, is not located in an important agricultural area, and is not under or adjacent to land under Williamson Act Contract.

13. *Important mineral resource areas;*

Discussion: The project site does not contain or is located adjacent to any important mineral resource areas. While mining sites exist on the property, the cultural resource report prepared for the project concluded that no significant production resulted from these onsite mining activities.

14. *Capacity of the transportation system serving the area;*

Discussion: The Department of Transportation has reviewed and determined that completion of the required road improvements and payment of Traffic Impact Mitigation Fees prior to building permit issuance would reduce impacts to the existing traffic system in the area. There are currently no capacity issues on the area roadways, nor are any future impacts anticipated.

15. *Existing land use pattern;*

Discussion: The project site is surrounded by land designated for rural residential uses. The proposed rezone would be entirely consistent with that land use pattern.

16. *Proximity to perennial water course;*

Discussion: There are no perennial water courses on the project site. The closest perennial water course is the North Fork of the American River located approximately ½-mile north of the project site.

17. *Important historical/archeological sites;*

A Cultural Resources Study was prepared for the project which identified several historic features associated with mining activities during the mid-1800s. These features were determined to have insignificant value in the context of regional historical mining features.

No archaeological features were found on the project site or in the nearby vicinity.

18. *Seismic hazards and present of active faults;*

Discussion: The project site does not contain or is adjacent to seismic hazards or active faults. Adherence to standard construction practices would prevent any seismic related hazards.

19. *Consistency with existing Conditions, Covenants, and Restrictions;*

Discussion: The project parcels do not have any existing CC&Rs. CC&Rs would be required for the maintenance of the onsite roads and preservation of the proposed open space lots and oak tree replacement mitigation area. The CC&Rs would require review and approval from DOT and Planning Services.

Development Standards: Section 17.28.210 A-H of the Zoning Ordinance establishes the requirements for development within the RE-10 Zone District:

A. *Minimum lot area, ten acres*

The project would create four (4) parcels ranging in size from 20.00 acres to 47.22 acres. All would exceed the 10-acre minimum lot area.

B. *No maximum building coverage.*

Future development of the residential lots would include single family residences and accessory buildings. The project would not conflict with this requirement.

C. *Minimum Lot Width, one hundred feet.*

All proposed lots would have a lot width well in excess of one hundred feet.

D. *Minimum yard setbacks: front and rear, thirty feet; sides, thirty feet except the side yard shall be increased one foot for each additional foot of building height in excess of twenty-five feet (25'); (Ord. 4236, 1992)*

Building envelopes shown on Exhibit _ would all meet required setbacks as set forth in this development standard. In addition, individual homes will be required to meet all setback requirements and will be reviewed for consistency during building permit review.

E. *Minimum agriculture structural setbacks of fifty feet on all yards;*

Surrounding properties are all rural residential in nature and there is no ongoing agriculture on surrounding parcels. However, the large parcel sizes afford the ability to meet this requirement of a fifty foot setback on all yards if necessary.

F. *Maximum building height, forty-five feet (45') (Ord 4236, 1992)*

No development is proposed on the lots. Future development on each lot would require compliance with the maximum height requirements of the RE-10 zone.

G. *Minimum dwelling unit area, six hundred square feet of living area and two rooms:*

Future development of each lot would require compliance with the minimum dwelling unit size of the RE-10 zone.

H. *Location of the Parcel in Relation to Surrounding Land Use. The success and stability of agricultural enterprises can be profoundly influenced by the zoning and use of immediately adjacent lands. A buffer area of fifty feet will be required on the inside of a boundary where land zoned estate residential five acres abuts planned agricultural zone lands which are currently not in horticultural and timber production. Variances to the above will be considered upon recommendation of the agricultural commission. The development of a dwelling or noncompatible use shall be one hundred feet from any existing horticultural or timber enterprises. Noncompatible uses are defined as, but not limited to:*

- 1. Residential structures,*
- 2. Nursing homes,*
- 3. Public and private schools,*
- 4. Playgrounds,*
- 5. Swimming pools,*
- 6. Fish ponds. (Ord. 3606 §15, 1986; Ord. 3366 §§10, 11, 1983; prior code §9412.2(e))*

Discussion: Surrounding land uses are all rural residential in nature. The proposed general plan amendment and rezone would bring the proposed land use designation into consistency with surrounding land uses. No future agriculture is contemplated in the area, and thus agricultural buffers are not necessarily required.

Conclusion: As discussed above, staff finds that the project can be found to conform with the intent of the Zoning Code and that the necessary findings can be made to support the request for a General Plan land use designation change, a rezone, and tentative parcel map creating four parcels. The details of those findings are contained in Attachment 2.

Agency and Public Comments: Appropriate conditions from each reviewing agency are included in the project permit. The following agencies provided comments and/or conditions for this project:

El Dorado County Fire Protection District
El Dorado County Department of Transportation
El Dorado County Environmental Management
El Dorado County Air Quality Management District
El Dorado County Resource Conservation District
El Dorado County Transportation Authority
El Dorado County Local Agency Formation Commission (LAFCO)
Office of the County Surveyor
El Dorado County Agricultural Commission

ENVIRONMENTAL REVIEW

Staff has prepared an Initial Study (Environmental Checklist with Discussion attached) to determine if the project has a significant effect on the environment. Based on the Initial Study, staff finds that the project could have a significant effect on biological resources. However, the project has been modified to incorporate the mitigation measures identified in the Initial Study which will reduce the impacts to a level considered to be less than significant. Therefore, a Mitigated Negative Declaration has been prepared

NOTE: This project is located within or adjacent to an area which has wildlife resources (riparian lands, wetlands, watercourse, native plant life, rare plants, threatened and endangered plants or animals, etc.), and was referred to the California Department of Fish and Game. In accordance with State Legislation (California Fish and Game Code Section 711.4), the project is subject to a fee of \$1,876.75 after approval, but prior to the County filing the Notice of Determination on the project. This fee plus a \$50.00 recording fee, is to be submitted to Planning Services and must be made payable to El Dorado County. The \$1,876.75 is forwarded to the State Department of Fish and Game and is used to help defray the cost of managing and protecting the States fish and wildlife resources

RECOMMENDATION: Staff recommends the Planning Commission forward a recommendation that the Board of Supervisors take the following actions:

1. Adopt the Mitigated Negative Declaration based on the Initial Study reviewed by staff;
2. Adopt the mitigation monitoring program in accordance with CEQA Guidelines, Section 15074(d), as incorporated in the conditions of approval and mitigation measures in Attachment 1;
3. Approve General Plan Amendment A08-0004 and Rezone Z07-0026 based on the findings in Attachment 2;

4. Approve Tentative Parcel Map Application P07-0025, subject to the conditions in Attachment 1, based on the findings in Attachment 2; and
5. Approve the design waiver of a dead end road from 2,640 feet to a length of 5,280 feet, since appropriate findings have been made as noted in Attachment 2:

SUPPORT INFORMATION

Attachments:

Attachment 1	Conditions of Approval
Attachment 2	Findings
Exhibit A	Vicinity Map
Exhibit B	Assessor's Parcel Map
Exhibit C	General Plan Land Use Map
Exhibit D	Zoning Map
Exhibit E	Tentative Parcel Map, dated June 2007
Exhibit F	Grading & Drainage Plan, dated June 2007
Exhibit G	Map Showing Building Envelopes & Mitigation Area
Exhibit H	Aerial Photo
Exhibit I	Soils Map
Exhibit J	Pilot Hill U.S.G.S. Quadrangle
Exhibit K	Draft Mitigated Negative Declaration

ATTACHMENT 1

CONDITIONS OF APPROVAL

File Number A08-0004/Z07-0026/P 07-0025

Conditions of Approval:

1. The project, as approved, consists of the following:

This General Plan land use designation amendment, rezone, and tentative parcel map are based upon and limited to compliance with the project description, the Planning Commission hearing exhibit marked Exhibits A-K (General Plan amendment/rezone/tentative parcel map) dated May 22, 2008, 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.

Project Description: Approval of this project allows the following: amendment to the General Plan land use designation from Rural Residential (RR) and Commercial-Platted Lands (C-PL) to Rural Residential (RR) on the 129.43-acre lot referenced as Assessor's Parcel Number 104-100-67; a rezone to change zoning designation from RE-10 (Estate Residential Ten-Acres), RE-5 (Residential Five-Acres), C (Commercial) and AE (Exclusive Agricultural) to RE-10 (Estate Residential Ten-Acres), and a tentative parcel map to subdivide the existing 129.43-acre parcel into four parcels ranging in size from 20.00 to 47.22-acres. Future development (structural improvements, grading, utilities, paving, etc) will be limited to building envelopes designated on Exhibit G. Building envelopes are designated on areas of less than 30% slope, outside setback areas for water courses and water bodies, and outside setbacks required by the RE10 zone district. Access for Parcel 2 will be provided from Rattlesnake Bar Road. Access for Parcels 1, 3, and 4 will be provided by Burkett Lane. Burkett Lane will be improved to Fire Department and Department of Transportation standards.

2. All site improvements shall conform to Exhibits E-G.

Environmental Review (Mitigation Measures)

3. **MM Bio-1:** All grading, improvement, and building plans shall state: "It is the applicant and contractor's responsibility to comply with all applicable state and federal laws and regulations including the Federal and State Endangered Species Acts and the Clean Water act for all on-site impacts. The County Grading Permit does not authorize Contractor to conduct activities not permitted by applicable State and Federal agencies in areas subject to State and Federal jurisdiction."

Timing/Implementation: Prior to issuance of grading and building permits
Enforcement/Monitoring: El Dorado County Planning

4. **MM Bio-2:** In order to avoid impacts to sensitive habitat for State- and/or Federally-listed species, species of concern; impacts due to erosion and sedimentation, and impacts drainages, watercourses, and water bodies, building/development envelopes shall be designated consistent with Exhibit G, dated April 21, 2008. No development or earth disturbance shall occur outside of these areas. Construction equipment operation shall be confined to the approved development envelopes. Prior to final map recordation, a Notice to Property Owner (NTPO) stating this limitation and including a figure depicting the development envelope location shall be recorded with the County Clerk-Recorder. The development envelope shall be shown on all plans submitted for land use and building permits. Development envelope boundaries shall be staked in the field.

Timing/Implementation: Prior to issuance of final map recordation
Enforcement/Monitoring: El Dorado County Planning

5. **MM Bio-3:** Any oak trees removed from the site shall be mitigated as specified in the Interim Interpretive Guidelines for El Dorado County as adopted by the County on November 9, 2006. Mitigation for loss of tree canopy shall be implemented to reduce impacts from oak tree loss. Fulfillment of any one of the following options will reduce impacts to a less than significant level:
- a. For tree replacement under Policy 7.4.4.4 of the General Plan, oak trees shall be replanted at a rate of 200 tree saplings per acre, or 600 acorns per acre, whether on-site or off-site. A tree planting and preservation plan is required prior to issuance of a grading permit. If the applicant chooses to replace removed trees off-site, an easement for off-site replacement must be obtained prior to the recordation of the tentative map. A letter from the certified project arborist or qualified biologist verifying the replacement of trees and a contract for intensive to moderate maintenance and monitoring shall be required for a minimum of 15 years after planting. The survival rate shall be 90 percent. Any trees that do not survive during this period of time shall be replaced by the property owner. The arborist or biologist contract, planting and maintenance plan, and all compliance documents necessary to meet the Oak Woodlands Interim Interpretive Guidelines shall be provided to Planning Services prior to issuance of a grading permit.
 - b. Payment of all fees required under Option B of General Plan Policy 7.4.4.4 to the county's Integrated Natural Resources Management Plan (INRMP). Payment of fees shall be at a migration ratio of 2:1 and based on all impacted oak woodland acreage. Payment of fees and successful completion of this alternative is dependent upon county adoption and implementation of the INRMP by the County and approval of Planning Services.

Timing/Implementation: Prior to issuance of grading and building permits
Enforcement/Monitoring: El Dorado County Planning

6. **MM Bio-4:** If option a. above is utilized, the applicant shall provide an update letter to be prepared by a qualified professional about the health and progress of the re-planted oak saplings and/or oak acorns for this project.

Timing/Implementation: Prior to issuance of occupancy permits
Enforcement/Monitoring: El Dorado County Planning

7. **MM Bio-5:** If option a. above is utilized, Covenants, Conditions, and Restrictions (CC&Rs) shall be established and recorded for this project that would, in part, ensure the survival of replanted oaks by requiring that each property owner share equally in the responsibility in the long term monitoring and maintenance of replanted oaks. The CC&Rs shall require that the property owners coordinate a one year, three years, five years, and ten year monitoring survey to be prepared by a qualified professional for both oak and saplings that would be replaced, as well as a similar fifteen year survey update for acorns. In the event that the replanted saplings or acorns not survive, they shall be replaced (at the sole and equally shared cost of each property owner) based on County adopted policies and standards, and based on the input of a qualified professional.

Timing/Implementation: Prior to issuance of grading and building permits
Enforcement/Monitoring: El Dorado County Planning

8. **MM Bio-6:** A conservation easement, consistent with Exhibit G contained herein, shall be designated on the parcel map for the sole purpose of providing an area for the replacement of oak trees disturbed or removed consistent with Option A of General Plan Policy 7.4.4.4. This conservation easement shall be recorded prior to filing of the parcel map. The conservation easement may be modified subject to review and approval by Planning Services with appropriate documentation from the property owner in the form of an oak tree canopy report and tree replacement and preservation plan prepared by a certified project arborist or qualified biologist. The plan shall evaluate potential impacts of future development activities within designated building envelopes. Modification of the conservation easement will require formal application to El Dorado County Planning Services for a map revision.

Timing/Implementation: Prior to filing of the parcel map.
Enforcement/Monitoring: El Dorado County Planning

9. **MM Bio-7:** Prior to issuance of grading permits, the property owner shall select one building envelope on Parcel 3 upon which development activities are to occur. Grading permits and building permits shall specify the proposed envelope on an exhibit to be provided to the contractor designated to perform the grading and construction activities.

Timing/Implementation: Prior to issuance of grading and building permits

Enforcement/Monitoring: El Dorado County Planning

10. **MM Bio-8:** Fencing shall be limited to areas around barns and or homes for the purposes of protecting livestock or landscaping. The property owner shall submit a fencing plan to El Dorado County Planning with the submission of building permits for review and approval.

Timing/Implementation: Prior to issuance of building permits

Enforcement/Monitoring: El Dorado County Planning

Planning Services Site Specific and Standard Conditions

11. 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 must 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.
12. The applicant shall be required to pay Park-in-Lieu fee of \$150.00 payable to El Dorado County, 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 the Planning Services prior to filing of the final parcel map.
13. The applicant shall make the actual and full payment of planning processing fees for the general plan amendment, rezone and the tentative parcel map application prior to filing the parcel map.
14. 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 applicant 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 parcel map, which action is brought within the time period provided for in Section 66499.37.

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

El Dorado County Department of Transportation

Project Specific DOT Conditions

15. **On-site Access Improvements:** The applicant shall widen the on-site portion of Burkett Lane to a 20-ft wide roadway with 10-ft shoulders on each side consistent with the provisions of the El Dorado County Design and Improvement Standards Manual (DISM), Standard Plan, 101C and *DISM II.3.A.12.a*, in effect at the time improvement plans are submitted for review and approval. 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.
16. **Off-site Access Improvements:** The applicant shall construct and /or verify that the off-site portion of Burkett Lane from the project boundary to Rattlesnake Bar Road, meets the requirements of El Dorado County Standard Plan 101C, and *DISM II.3.A.12.a*, a 20-foot roadway width with 10-foot wide shoulders on each side of the roadway, as required in Section 3.A.2.c.ii, of the DISM, and Fire Safe Regulations. The applicant shall provide an exhibit to the DOT, Planning, and the Fire Agency that shows that Burkett Lane complies with the DISM and Fire Safe Regulations as well as a secondary access road or acceptable alternative. 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.
17. **Off-site Access Easements:** The applicant shall provide proof of access to the project site from a State or County maintained road. Said proof shall be provided by and through a “Parcel Map Guarantee” which shall be submitted to the County Surveyor’s Office with the first map check for the parcel map.
18. The applicant shall grant a 60-foot road and public utility easement (R & PUE) where Rattlesnake Bar Road is located within the property boundaries prior to the filing of the parcel map. This offer will be accepted by the County.
19. A vehicular restriction must be placed on the existing road located within the existing 50-foot road easement (PM 15-86) for Parcels 1, 2, and 3 prior to the filing of the parcel map.
20. The applicant shall grant a 60-foot road and public utility easement (R & PUE) where Burkett Lane is located within the property boundaries prior to the filing of the parcel map. This offer will be rejected by the County.
21. Per the El Dorado County Design and Improvement Standards Manual (DISM) Section 3.B.2, the roadway shown at approximately STA 21+00 Burkett Lane shall be reconstructed so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at less than 70 degrees. The improvement plans shall provide bearings on the centerline of proposed roadway to show said condition is met.

22. The applicant shall construct the roadway encroachment of Burkett Lane onto Rattlesnake Bar Road to the provisions of DISM Standard Plan 103D and shall be paved per recommendations of geotechnical engineer. The improvements shall be substantially completed to the approval of the Department of Transportation or the applicant shall obtain an approved improvement agreement with security, prior to the filing of the parcel map.
23. The applicant shall provide for unobstructed visibility at the one-lane bridges (3 locations on Rattlesnake Bar Road) and provide/verify turnouts with a minimum 25-foot taper on each end. The improvements shall be substantially completed to the approval of the Department of Transportation or the applicant shall obtain an approval of the Department of Transportation or the applicant shall obtain an approved improvement agreement with security, prior to the filing of the parcel map.
24. The applicant shall form and/or verify the existence of an entity, to the satisfaction of DOT, for maintenance of all on-site roads and/or drainage facilities not maintained by the County, prior to the filing of the parcel map.
25. Per the Design and Improvement Standards Manual [Section 3 A) 9) & 12)] the applicant shall be required to provide a secondary access to this site or provide evidence of a fire safe plan in accordance to the corresponding fire department, prior to the filing of the parcel map.
26. As specified in the Conditions of Approval, the subdivider is required to perform off-site improvements. If it is determined that the subdivider 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 subdivider's expense and within 120 days of filing the Final 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 final map or parcel map, the subdivider 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 twenty-percent (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 subdivider 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.

27. The applicant shall adhere to all DOT standard conditions as specified in Attachment A.

Standard DOT Conditions

28. The developer shall enter into an Improvement Agreement with the County and provide security to guarantee the performance of the Improvement Agreement as set forth within the County of El Dorado Subdivision Ordinance, prior to filing of the parcel map.
29. If site improvements are to be made, the applicant shall submit a site improvement/grading plan prepared by a professional civil engineer to the Department of Transportation 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.
30. The applicant shall provide a soils report at time of improvement plan or grading permit application addressing , at a minimum, grading practices, compaction, slope stability of existing and proposed cuts and fills, erosion potential, ground water, pavement section based on TI and R values, and recommended design criteria for any retaining walls.
31. Any import, or export to be deposited within El Dorado County, shall require an additional grading permit for that offsite grading.
32. The applicant shall provide a drainage report at the 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.
33. Upon completion of the improvements required, and prior to acceptance of the improvements by the County, the developer will provide a CD to the DOT with the approved drainage and geotechnical reports in PDF format and the approved record drawings in TIF format.
34. The applicant shall pay the traffic impact fees in effect at the time a building permit is deemed complete.
35. All new or reconstructed drainage inlets shall have a storm water quality message stamped into the concrete, conforming to Sacramento County Standard Drawing 11-10. All stamps shall be approved by the El Dorado County inspector prior to being used.
36. 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 potential discharge of pollutants into drainages.

37. The applicant shall submit a soils and geologic hazards report (meeting the requirement for such reports provided in the El Dorado County Grading Ordinance) to, and receive approval from the El Dorado County Department of Transportation. Grading and design plans shall incorporate the findings of detailed geologic and geotechnical investigations.
38. Grading plans shall be prepared and submitted to the El Dorado County Resource Conservation District (RCD) and the Department of Transportation (DOT). The RCD shall review and make appropriate recommendations to the County. Upon receipt of the review report by the RCD, the DOT shall consider the imposition of appropriate conditions for reducing or mitigating erosion and sedimentation from the project. The County shall issue no building permits until the DOT approves the final grading and erosion control plans and the grading is completed.
39. The timing and construction and method of revegetation shall be coordinated with the El Dorado 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 DOT. The DOT shall approve or conditionally approve such plans and cause the developer to implement said plan on or before October 15.
40. 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 record drawings in TIF format.
41. Construction activities shall be conducted in accordance with the County noise regulation or limited to the following hours and days: 7:00 a.m. and 5:00 p.m. on any weekday; 8:00 a.m. and 5:00 p.m. on Saturdays; and prohibited on Sundays and holidays.
42. For projects that disturb more than one acres of land area (43,560 square feet), the Developer 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). The condition is mandated by State of California. 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 SWRCB, with a duplicate copy submitted to the County, prior to building permit issuance, and by state law must be done prior to construction.

El Dorado County Fire Protection District

43. Submit a review fee of \$120.00.

44. Fire flow for this project is 1,000 gpm @ 20 psi for two hours with additional fire hydrants.
45. In place of requirements for hydrants and fire flow the applicant may enter into a deed restriction for parcels 1, 2, and 4 for a “Fire District approved NFPA 13D Fire Sprinkler System with 3,000 gallons of water storage for all new structures.”
46. The existing home on Parcel 3 is required to have a 3000 gallon storage tank that is Fire District approved and within 500 feet of the home.
47. A deed restriction for an El Dorado County Fire District and a California Department of Forestry (CDF) approved Fire Safe Plan is required for this TPM. The Fire Safe Plan shall be reviewed and approved by El Dorado County Fire Protection District.
48. Existing non-conforming access roads serving this TPM will meet at a minimum Fire Safe Standards for width, surface, grade, radius, turnarounds, and turnouts, one-way and dead-end roads.
49. El Dorado County DOT standards may be more stringent and will supercede these requirements.
50. All Fire Protection District Requirements shall be completed prior to filing of the parcel map.

El Dorado County Office of County Surveyor

51. All survey monuments must be set prior to filing the parcel map.
52. 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 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.

ATTACHMENT 2 FINDINGS FOR APPROVAL

**File Number A08-0004/Z07-0026/P07-0025
Planning Commission, May 22, 2008**

1.0 CEQA Finding

- 1.1** El Dorado County has considered the Mitigated Negative Declaration together with the comments received and considered 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 Department, Planning Services Division at 2850 Fairlane Court, Placerville, CA.

2.0 General Plan Consistency Findings

- 2.1** The land use amendment from Rural Residential to Low Density Residential is consistent with Objective 2.1.3 in that the 5.0 to 5.5-acre parcel size would maintain the open character. Amending the land use designation to Low Density Residential is found to be in the public interest because of the public benefit of creating an emergency fire exit road to California Fire Code and SRA Fire Safe Standards. The proposed tentative parcel map, as conditioned, is consistent with the Low Density Residential General Plan land use designation for parcel size, density and land use.

- 2.2 The proposal, as conditioned, is consistent with the intent of Policies 2.1.1.7, 2.2.5.21, 5.7.1.1, 6.2.3.2, 7.4.2.9, 7.4.4.4 and because, upon completion of the conditions, there will be adequate roadways, utilities, and other public service infrastructure available. The project is consistent with the dominant lot pattern of development in the direct project vicinity and wildfire hazards have been addressed. As mitigated, impacts to the native oak tree canopy will be less than significant with the project.

3.0 Zoning Findings

- 3.1 The project is proposed to be zoned Estate Residential Ten-Acre (RE-10) which establishes a minimum parcel size of 10 acres. The project would create four parcels ranging in size from 20 to 49.00-acres in size which is consistent within the RE-10 zone district. The proposed parcels conform to the current zoning. All four parcels have the size and natural conditions to allow single-family development to meet the development standards in Section 17.28.210.

4.0 Tentative Map Findings

- 4.1 **The proposal conforms to the County's zoning regulations and Minor Land Division Ordinance** because they exceed the minimum parcel size required for the RE10 zone district and, as conditioned, there will be adequate emergency and regular vehicular access, public facilities and existing utilities to support the residential uses required by the parcels.
- 4.2 **The site is physically suitable for the proposed type and density of development** because the parcels have the capability to provide private facilities (water and wastewater disposal) to support the residential uses. Other utilities currently exist on and adjacent to the proposed parcels.
- 4.3 **The proposed tentative map is not likely to cause substantial environmental damage** because the project has been conditioned to provide building envelopes which would minimize environmental impacts to biological resources and erosion and sedimentation impacts. Access will be improved to current safety standards and the impacts from all other potential improvements (building pads and driveways) have been analyzed in the Initial Study and, as conditioned, have been found to be less than significant.

5.0 DESIGN WAIVER APPROVAL FINDINGS

To allow the length of a dead end street from 2,640 feet to a length of 5280 feet, in compliance with the El Dorado County Department of Forestry SRA Fire Safe Regulations 1273.09(a) Dead End Roads which allows the maximum length of a dead-end road for parcels zoned for 20 acres or larger not to exceed 5,280 feet.

5.1 There are special conditions or circumstances peculiar to the property proposed to be divided which would justify the adjustment or waiver.

The proposed access road would meet the County's road standards in terms of width but can not be looped because Burkett Lane is cut off by the American River to the north, as is Rattlesnake Bar Road. There are no other alternatives for secondary access.

5.2 Strict application of County design and improvement requirements would cause extraordinary and unnecessary hardship in developing the property.

The project would only result in the creation of two additional lots to be served by Burkett Lane, which presently serves 10 additional parcels to the north. Because of existing zoning and environmental constraints on these parcels, future discretionary development is unlikely to occur north of the proposed project. The requirement to create an additional access or looped road would therefore be burdensome on this proposed project. Such a requirement also seems unnecessary given that traffic volumes are low and the applicant will be required to develop a Fire Safe Plan acceptable to the El Dorado County Fire Protection District and DOT prior to final map recordation.