

PROJECT ANALYSIS: It has been over three years since the information and issues outlined within Exhibit B were first requested to be submitted and addressed. As discussed in the background section of this memorandum and attached letters (Exhibits E and F), the applicant has not submitted the required information necessary for staff to complete an analysis of the request and insufficient information has been provided to complete a revised Initial Study, pursuant to CEQA. Additionally, the project is inconsistent with the General Plan and Zoning Ordinance. As a result, staff cannot recommend approval of the SUP and requests that the Planning Commission deny S05-0006 for the following reasons:

1. General Plan Inconsistency

Policy 2.2.5.21 states *development projects shall be located and designed in a manner that avoids incompatibility with adjoining land uses that are permitted by the policies in effect at the time the development project is proposed. Development projects that are potentially incompatible with existing adjoining uses shall be designed in a manner that avoids any incompatibility or shall be located on a different site.*

Discussion: As proposed, the project is inconsistent with the surrounding large lot rural single-family residential land uses because of public, health, safety and welfare impacts, traffic impacts and inadequate access. Critical issues, such as a sufficient transportation plan and background check/screening procedures, for prospective residents have not been adequately addressed by the applicant. As many of the facility residents would either be on parole or probation, frequent unannounced visits from parole agents/probation officers are typically required to fulfill terms of parole/probation. Access to the subject site for such necessary frequent visits is inadequate. Most, if not all, residents would also require the use of a variety of off-site assistance programs such as medical appointments, job placement, educational training and counseling services. However, the subject site is located in an area with inadequate access to these off-site services. A compatible project would be designed and located in a more urbanized area that provides more adequate ingress to the site and availability of services described above.

Policy 6.2.3.2 directs that *as a requirement of new development, the applicant must 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.*

Discussion: Although the applicant has prepared a fire safe plan and several amendments which were reviewed and approved by the El Dorado County Fire Protection District and California Department of Forestry and Fire Protection, the applicant's ability to construct the required improvements to Jim Valley Road identified within the fire safe plan has not been adequately demonstrated. Easement documentation submitted by the applicant failed to provide sufficient evidence that the necessary improvements may be installed. As such, the applicant has not demonstrated that adequate access exists to serve the proposed project.

2. Zoning Ordinance Inconsistency

The proposed use may be permitted by Special Use Permit in the Estate Residential Ten-Acre (RE-10) zone district, pursuant to Section 17.70.100.J. However, in order to approve the use, the approving authority must find that the use is consistent with the General Plan and would not be detrimental to the public health, safety and welfare nor injurious to the neighborhood. Based on staff's project analysis, comments received from public agencies, citizen's groups,

and impacted neighbors, staff believes that the project would be detrimental to the public health, safety and welfare and would be injurious to the neighborhood because of inadequate access, traffic impacts and unresolved transportation plan and background check procedures for prospective facility occupants. Findings for project denial are included in Attachment 1.

3. Lack of Sufficient Information and Resolution of Issues

The applicant has been given ample opportunity to submit the necessary information as indicated by the attached Planning Services follow-up letters. Without the information and resolution of the issues outlined below, staff is unable to prepare the necessary environmental analysis and cannot recommend approval of the project.

4. Planning Commission Issues

The following issues were identified by the Planning Commission on July 28, 2005 and were to be addressed prior to scheduling the project for another public hearing for further consideration.

Easement documentation indicating the ability of the applicant to widen Jim Valley Road consistent with the approved fire safe plan.

Discussion: As discussed above, the submitted easement documentation (Exhibit D) was inconclusive and this issue has not yet been addressed because Placer Title Company was only able to conclude that “these documents appear to provide access, but the descriptions are not defined enough to be more specific.” Further, the Department of Transportation (DOT) was also not able to confirm that the applicant has the ability to widen Jim Valley Road consistent with the approved fire safe plan based on the submitted easement documentation.

Background check/screening procedural information.

Discussion: The applicant indicates that “criminal records checks and background screening will be done to the fullest extent allowed by CFR part 2.” However, staff believes that the implementation and enforcement of such a condition, should the project be approved, is infeasible and involves potentially unknown fiscal impacts to the County in its attempt to ensure that adequate background checks are conducted for each prospective facility occupant. As the Development Services Department lacks the expertise, time, and resources to enforce a background check condition, the monitoring agency for such a condition is unclear.

No visitors or private vehicles are to be permitted at the facility.

Discussion: Applicant provided information which states that “facility residents will not receive visits from family or friends, nor will they be allowed their own vehicles at the facility at any time.” The applicant further states, “the proposed Therapeutic Community project is expected to generate an average of 17 trips or less per day, including scheduled van trips, staff commute trips and parole/probation visits.” As the parole/probation visits are legally required and frequently unannounced, it would not be possible to include an accurate estimate of the total number of trips in this category. Although the applicant concludes that the proposed use would generate fewer trips than the current transitional home use, trip

generation research indicates that a typical single-family home residential use at the subject site would generate at average of approximately 10 daily trips.

Twenty residents (in addition to five staff members) will be the maximum number of occupants permitted at the site.

Discussion: At the hearing of July 28, 2005, the Planning Commission expressed a desire to limit the maximum number of facility residents to twenty persons excluding five staff members. However, the applicant's response indicates they wish to have 24 facility residents. The information states, "Since the Rising Hope Facility has three bathrooms, applicant is prepared to revise the number of residents down to 24." This statement is inconsistent with previous Planning Commission direction.

Background checks shall be conducted for each prospective facility resident, including screening for Megan's Law and specific penal code references to be included at the discretion of the facility operator, County Counsel and the Planning Commission.

Discussion: As discussed above, the applicant has submitted information detailing the types of background checks and screening of potential clients for the facility. Although the applicant has attempted to address this previous Planning Commission concern, enforcement of such a condition by Planning Services staff is not feasible.

Merging of the Special Use Permit to include all neighboring parcels currently owned by the property owner of the subject site.

Discussion: The applicant is willing to include the two adjoining parcels in this Special Use Permit application and "to have the permit conditioned that he relinquish his right to use any single-family residence he builds in the future on either parcel as a transition home or halfway house for as long as the permit is in force or until the County releases the applicant from this condition."

Establishment of a complaint hotline.

Discussion: The applicant states, "Staff at the Rising Hope Therapeutic Community residential treatment facility located at 2223 Jim Valley Road will be available 24 hours a day, 7 days a week, to respond to any questions, concerns or complaints. A staff telephone number will be established and published for that purpose."

Annual review to be conducted for the first three years of facility operation.

Discussion: Should the Planning Commission wish to approve the project, staff would develop an annual review condition of approval.

Further transportation plan details (i.e. Will one van be adequate for transporting all facility residents to the required job training, medical appointments and related services?)

Discussion: The applicant submitted further transportation details including the following: "A 15-passenger van will transport residents on a set schedule every day of the week. Two

10-passenger vans (or their equivalent) will remain onsite and be available for emergencies. Staff vehicles will also be available for emergencies.” While the applicant has addressed the issue regarding the number of vans available for the transportation of facility residents, the traffic and access issues remain unresolved.

Conclusion: Although the applicant has resolved or attempted to resolve many of the issues identified at the Planning Commission hearing of July 28, 2005, staff believes that many issues such as background check procedures and enforcement, potential traffic impacts and inadequate project access have not been adequately addressed and cannot be resolved at the proposed project site. The proposed project is inconsistent with General Plan policies 2.2.5.21 concerning land use compatibility and 6.2.3.2 concerning adequate emergency vehicle access. Additionally, the proposal is inconsistent with the Zoning Ordinance because the use is inconsistent with the General Plan and would be detrimental to the public health, safety and welfare nor injurious to the neighborhood. As a result of these General Plan policy and Zoning Ordinance inconsistencies, use of CEQA Section 15270 denial exemption is appropriate for this project.

ATTACHMENTS:

- Attachment 1: Findings

- Exhibit A: Vicinity Map
- Exhibit B: Planning Services Letter, August 16, 2005
- Exhibit C: Applicant’s Response Letter, November 22, 2005
- Exhibit D: Placer Title Company Letter, December 5, 2006
- Exhibit E: Planning Services Letter, February 11, 2008
- Exhibit F: Planning Services Letter, July 15, 2008

ATTACHMENT 1 **FINDINGS**

FILE NUMBER S05-0006

1.0 CEQA FINDINGS

- 1.1 The project is found to be Statutorily Exempt from CEQA pursuant to Section 15270 (a) project disapproval.
- 1.2 The Planning Commission finds that disapproval of the proposed project could not have a significant effect on the environment.
- 1.3 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of Planning Services at 2850 Fairlane Court, Placerville, CA.

2.0 ADMINSTRATIVE FINDINGS

2.1 Special Use Permit S05-0006 Findings

2.1.1 *The issuance of the permit is consistent with the General Plan.* As outlined above, the project is inconsistent with General Plan policies 2.2.5.21 concerning land use compatibility and 6.2.3.2 concerning adequate emergency vehicle access because it is incompatible with the surrounding rural residential land uses and lacks adequate access, emergency access, and infrastructure.

2.1.2 *The proposed use would not be detrimental to the public health, safety and welfare, or injurious to the neighborhood.* The proposed use is detrimental to the public health, safety and welfare, and injurious to the neighborhood because of the unresolved issues concerning inadequate access, traffic impacts, transportation planning, and background check procedures for prospective facility occupants. Further, the applicant lacks the required easements to legally improvement Jim Valley Road required under the fire safe plan dated September 26, 2007.

2.1.3 *The proposed use is specifically permitted by special use permit pursuant to this Title.* The proposed use is permitted by Special Use Permit in the Estate Residential Ten-Acre (RE-10) zone district, pursuant to Section 17.70.100.J. However, in order to approve the use, the approving authority must find that the use is consistent with the General Plan and would not be detrimental to the public health, safety and welfare nor injurious to the neighborhood. Based on Finding 2.1.1 and 2.1.2 above, this finding cannot be made.