

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



Agenda of: December 10, 2009
Item No.: 9
Staff: Jonathan Fong

REZONE

FILE NUMBER: Z09-0007

APPLICANT/AGENT: Charles and Kyleen Cornell

REQUEST: Zone Change from Estate Residential Five-Acre (RE-5) to Select Agricultural (SA-10).

LOCATION: On the west side of Greenwood Road, approximately 0.7 miles north of the intersection with Marshall Road in the Garden Valley area, Supervisorial District IV. (Exhibit A).

APN: 060-190-41 (Exhibit B)

ACREAGE: 13.53 acres

GENERAL PLAN: Rural Residential- Agricultural District- Important Biological Corridor- Mineral Resources (RR-A-IBC-MR) (Exhibit C)

ZONING: Estate Residential Five-Acre District (RE-5) (Exhibit D)

ENVIRONMENTAL DOCUMENT: Negative Declaration

RECOMMENDATION: Planning Services recommends the Planning Commission forward the following recommendation to the Board of Supervisors:

1. Adopt the Negative Declaration based on the Initial Study prepared by staff;
2. Approve Rezone application Z09-0007 based on the findings in Attachment 1; and

3. In accordance with Board of Supervisors Resolution 079-2007, reduce the 200-foot agricultural setback one hundred percent (100%) (not less than 30 feet) for the following parcels:

APN: 060-190-31

APN: 060-190-42

APN: 060-190-21

APN: 060-170-27

APN: 060-170-28

APN: 060-180-04

APN: 060-180-11

BACKGROUND: The proposed Rezone from RE-5 to SA-10 would allow an expanded range of agricultural uses allowed by right on the project parcel. As discussed in the Zoning section below, the Agricultural Commission has reviewed the project and has recommended approval of the Rezone (Exhibit H).

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 request would rezone the project site from Estate Residential Five-Acre (RE-5) to Select Agricultural (SA-10). The Rezone would bring the parcel zoning into conformance with the Rural Residential (RR) General Plan Land use designation. As shown on the Site Plan (Exhibit E), the Rezone would allow for future expansions of the existing goat farming operation to occur as a use permitted by right. Future agricultural operations would utilize the existing permitted encroachment onto Greenwood Road.

Site Description: The project site is located within the Garden Valley Agricultural District. Topography on the site is relatively flat with elevations ranging from 1,450 to 1,550 feet above sea level. Existing improvements on the site includes residential development in the northeastern portion of the property. The existing residence and garage are accessed via Marigold Mine Way which is a privately maintained road. Marigold Mine Way provides access to five parcels to the west of the project site. The site is currently served by Georgetown Divide Public Utilities District (GDPUD) public water and a private on-site septic system.

The applicant currently keeps approximately 24 goats for milking, breeding and meat. Associated shelters and pens are located south of the residence. Approximately 200 feet south of the intersection with Marigold Mine Way and Greenwood Road is a permitted encroachment which provides access to a permitted inspection-exempt barn. The proposed cheese making facility would be accessed via the existing driveway to the barn. Vegetation on-site is dense consisting of pines, mixed oaks, and native grasslands.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	RE-5	RR-A-IBC-MR	Residential/ agricultural
North	RE-5	RR/I-A-IBC-MR	Residential
South	RE-5	RR-A-IBC-MR	Residential/Single-family residences
East	RE-10	RR-A-MR	Residential/Single-family residences
West	RE-5/ RE-10	RR-AL-A-IBC-MR	Residential/ Single-family residences

The subject site is located in a Rural Region adjacent to low-density residential and undeveloped lands. The proposed Rezone to SA-10 would allow for agricultural uses that would be consistent within the Garden Valley Agricultural District and the Rural Residential land use designation.

General Plan: The General Plan designates the subject site as Rural Residential (RR) The land use designation includes the following General Plan Overlays: Agricultural District (A), Mineral Resources (MR), and Important Biological Corridor (IBC).

The General Plan establishes that lands within the RR designation have the potential for residential and agricultural operations. Table 2-4 of the General Plan indicates that the current RE-5 zoning district for the project site is inconsistent with the Rural Residential General Plan land use designation. The proposed SA-10 Zone District would bring the parcel zoning into conformance with the RR land use designation pursuant to Table 2-4.

General Plan Policy 2.2.5.3 directs that the County shall evaluate future rezoning: (1) To be based on the General Plan’s general direction as to minimum parcel size or maximum allowable density; and (2) To assess whether changes in conditions that would support a higher density or intensity zoning district. The specific criteria to be considered include, but are not limited to, the following:

1. *Availability of an adequate public water source or an approved Capital Improvement Project to increase service for existing land use demands;*
2. *Availability and capacity of public treated water system;*
3. *Availability and capacity of public waste water treatment system;*

The project site is located within the Georgetown Divide Public Utilities District (GDPUD) and is currently served by public water. The existing residence on the site is served by an existing septic system for wastewater disposal. Any future expansion for a cheese making facility or other agricultural expansion that would require water or sewage disposal would require a new septic system and extension of water services. All septic systems would be reviewed by Environmental Management for consistency with County standards. The increased demand on GDPUD would be minimal and would not exceed typical water service demand for a residential parcel and accessory agricultural uses.

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

The project is located within the Black Oak Mine Unified School District. The proposed Rezone would allow an increased range of agricultural uses permitted by right and would not allow additional residential density that would increase the existing demand on the public school system.

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

The project parcel is located within the Garden Valley Fire Protection District. The nearest station is approximately 2,800 feet south of the site at the intersection of Greenwood Road and Marshall Road.

Any future development would be reviewed by the District during the building permitting process to ensure compliance with the Fire Safe Regulations.

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

The project parcel is located 2,500 feet north of the Garden Valley Rural Center.

7. *Erosion hazard;*

Potential erosion hazards are unlikely. No grading is proposed with the Rezone application. Future development must adhere to the County's grading and erosion control requirements. The site is relatively flat with no steep slopes or riparian areas on-site. The likelihood of severe erosion hazards due to expanded agricultural uses on the site would be low.

8. *Septic and leach field capability;*

9. *Groundwater capability to support wells;*

The project parcels would continue to be served by a private septic and GDPUD public water as discussed under criteria 1 through 3 above.

10. *Critical flora and fauna habitat areas;*

The project site is located within an Important Biological Corridor (IBC). General Plan Policy 7.4.2.9 establishes that the IBC overlay is to be applied to lands having high wildlife habitat values. Policy 7.4.2.9 establishes that additional restrictions that may be applicable to parcels within the IBC. These restrictions are to be implemented in the Zoning Ordinance. These restrictions would potentially include the following:

- *Increased minimum parcel size;*

The proposed Rezone to SA-10 would establish a minimum parcel size of 10-acres. The site is 13.5-acres and could not be further subdivided based on the minimum parcel size within the RR land use designation.

- *Higher canopy-retention standards and/or different mitigation standards/thresholds for oak woodlands;*

Oak woodland mitigation is implemented through the Oak Woodlands Management Plan (OWMP) and Chapter 17.73 of the County Code. No provisions are included in the OWMP or the County Code that would require a higher level of mitigation for projects within the IBC. Any development of the site would be required to comply with Chapter 17.73 of the County Code and the OWMP.

- *Lower thresholds for grading permits;*

The adopted Grading, Erosion and Sedimentation Ordinance does not include different thresholds for grading within the IBC. All development of the site would be done in conformance with the adopted County standards.

- *Higher wetlands/riparian retention standards and/or more stringent mitigation requirements for wetland/riparian habitat loss;*
- *Increased riparian corridor and wetland setbacks;*

The project site does not contain wetlands, riparian areas, or associated riparian habitat. The nearest riparian feature is the Coloma Canyon which is located approximately 500 feet to the west of the project site. No additional mitigation requirements or increased setbacks for wetlands or riparian areas would be applicable to the 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 Department of Fish and Game);*

The project site is not located within the Rare Plant Mitigation Areas.

- *Standards for retention of contiguous areas/large expanses of other (non-oak or non-sensitive) plant communities;*

The Zoning Ordinance currently does not have retention standards for non-oak or non-sensitive plant species. The site has been previously disturbed with grazing areas for goats, building sites for barns and future expansion for a cheese making facility. It is unlikely that expansion of the on-site agricultural operations would result in removal of all vegetation on-site. The primary areas of disturbance for the agricultural operations are along Greenwood Road. Due to the topography of the site in the western portions of the site, these areas would likely remain undisturbed.

- *Building permits discretionary or some other type of “site review” to ensure that canopy is retained;*

The Zoning Ordinance does not require any discretionary review of ministerial building permits within the IBC. However, General Plan Policy 2.2.5.20 requires submittal of a General Plan Consistency Checklist as part of any building permit submittal. The Checklist would require that development would be consistent with applicable General Plan policies including the oak canopy retention requirements established by General Policy 7.4.4.4 and the OWMP.

- *More stringent standards for lot coverage, floor area ratio (FAR), and building height; and*

The Zoning Ordinance does not require modified standards for parcels within the IBC and defers to the development standards of the zone district. As discussed in the Zoning section below, the proposed SA-10 Zone District would limit the residential coverage of the site to 15,000 square feet.

- *No hindrances to wildlife movement (e.g., no fences that would restrict wildlife movement).*

Review of the Important Biological Resources Maps in the area indicates that the project site is not in a deer migratory corridor or near or adjacent to any known wildlife habitat corridors.

The site is currently in use for raising goats and associated fencing to contain the animals is located through the site. The Zoning Code does not include restrictions prohibiting the installation of fencing that would restrict wildlife movement. Under the current RE-5 Zoning, the entire 13-acre site could be fenced by right. Currently, the only portions of the site that are fenced are the goat pens and portions of the residential areas. These areas are limited to the disturbed areas along Marigold Mine Way and Greenwood Road.

11. Important timber production areas;

The project site does not contain nor is located adjacent to designated important timber areas.

12. Important agricultural areas;

The project parcel is located within the Garden Valley Agricultural District and is currently in use for raising goats. General Plan Objective 8.1.1 states that the purpose of establishing Agricultural Districts is to identify important agricultural lands including crop and grazing lands. This objective is enacted through General Plan Policies 8.1.1.1 through 8.1.1.3 which establish criteria for establishing and expanding Agricultural Districts. The project site is currently located within the Garden Valley Agricultural District. The proposed Rezone to SA-10 would allow an expanded range of agricultural uses to be permitted by right on the site. The proposed Rezone would be consistent with the Objectives and Policies of the General Plan in allowing for an increased range of agricultural uses to occur on-site.

General Plan Policy 8.1.4.1 requires a recommendation from the Agricultural Commission for all discretionary project which have the potential to impact agricultural lands. As previously stated, the Ag Commission recommended approval of the proposed Rezone based on findings that the proposed Rezone to SA-10 would allow for expanded agricultural use of the site and would not negatively impact the surrounding property owners.

13. Important mineral resource areas;

General Plan Policy 7.2.2.2 identifies a range of General Plan land use designations which are determined to be compatible with the MR overlay and are capable of surface mining operations. The

RR land use designation has been determined to be compatible with surface mining and mineral extraction. Planning Services has reviewed County data related to active surface mining operations and found multiple historical mines in the project area that have been abandoned. The proposed SA-10 zoning would allow mineral extraction through approval of a Special Use Permit and therefore would be consistent with the objectives of the MR overlay in promoting mining operations within the RR land use designation.

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

The project site is accessed via Marigold Mine Way and Greenwood Road. The proposed goat cheese making expansion would be accessed via an existing encroachment onto Greenwood Road which is a County Maintained Road. Greenwood Road operates at a level of service (LOS) which is within the thresholds established by the General Plan. Any proposed agricultural activities on the site would not exceed the LOS thresholds established by the General Plan.

15. *Existing land use pattern;*

The surrounding parcels are also located within the Garden Valley Agricultural District. As shown on the Zoning Map (Exhibit D), the parcels are zoned RE-5 and RE-10. In accordance with General Plan Policy 8.1.3.2, the proposed SA-10 zoning would be considered an agricultural zoning and therefore would impose a 200-foot setback on the surrounding parcels.

As determined in the “Agriculture and Timberland Setbacks Application Questionnaire” which was included in the adoption of the “Interim Interpretative Guidelines for El Dorado County General Plan Policies 8.1.3.2. and 8.4.1.2”, because the surrounding parcels would be adjacent to agriculturally zoned lands within an Ag District, the proposed Rezone would impose a 200-foot setback on the surrounding parcels. As shown in Exhibit G of the Staff Report, the project site is bounded to the North and South by smaller parcels which would be entirely within the 200-foot setback area. In accordance with Board of Supervisors Resolution 079-2007, the Board of Supervisors in reviewing a Rezone to an agricultural zone may reduce the Ag setback to not less than 30 feet (Fire Safe Regulations minimum) for parcels affected by the proposed Rezone.

Planning Services has recommended the Ag Setback be reduced for those parcels which would be entirely located or nearly entirely located within the proposed setback. The “Criteria for Administrative Relief from Agricultural Setbacks” would authorize the Development Services Director upon concurrence from the Agricultural Commissioner to reduce the Ag setback by up to 75 percent (150 feet). However, as shown the Exhibit G, a 75 percent reduction would still render the affected parcels completely encumbered by the Ag Setback. Planning Services has recommended the Board waive the Ag setback requirement for the listed properties to avoid the requirement for subsequent Ag Commission hearings which would be required for future residential development on the affected parcels.

Exhibit G includes three (3) other parcels which Planning Services has not recommended a 100 percent reduction of the Ag setback. Review of these three parcels indicates property sizes ranging from 6.9-acres to over 40-acres. Planning Services has determined that sufficient building locations

outside of the 200-foot setback would be available for future development on those parcels. Agriculture setback reduction findings have been included in Attachment 1 of the Staff Report.

16. *Proximity to perennial water course;*

The nearest water course would be 500 feet west of the project site. Impacts to the water course would be remote.

17. *Important historical/archeological sites;*

The Cultural Resource Study that was prepared for the site did not identify any sensitive resources on the site. Any development of the site would be subject to the requirements of the General Plan Consistency Checklist which would include standard protective measures to be implemented in the event historical or archeological features are discovered during project construction.

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

The project site is not located in a seismic hazard area or in the proximity of any active faults.

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

The site does not have any CC&R's.

Conclusion: As discussed above, the proposed Rezone to SA-10 would be consistent with the objectives of the General Plan related to the encouragement of agricultural activities within Ag Districts. Planning Services has recommended that the required Ag Setback be waived for those parcels which would be most encumbered by the 200-foot setback. The proposed Rezone would not intensify any impacts to biological resources or negatively impact the area, therefore Planning Services staff finds the project would be consistent with the General Plan.

Zoning: In accordance with Section 17.36.250 of the County Code, a proposed Rezone to SA-10 would require a recommendation from the Agricultural Commission. The AG Commission reviewed the project on September 9, 2009 AG Commission Hearing and recommended approval of the proposed Rezone based on the suitable Choice soils on the project site and location within the Garden Valley Agricultural District.

The proposed Rezone from Estate Residential Five-Acre (RE-5) to Select Agricultural (SA-10) would allow for an expanded range of agricultural uses to be permitted by right.

Section 17.28.170 of the County establishes the purpose of the RE-5 Zone District is to allow residential development and accessory agricultural pursuits. Section 17.36.210 of the County Code establishes the purpose of the SA-10 Zone District is to promote the agricultural development of lands. In addition, the SA-10 District is to promote and encourage the sale, packing, and processing in order to increase the economic viability of agricultural uses.

Uses Permitted by Right: Both the RE-5 and the SA-10 Zone Districts permit one-single family detached dwellings and associated accessory structures. Barns and agricultural structures are also allowed by right. The RE-5 Zone District allows accessory agricultural operations which include raising and grazing of domestic animals and cultivation of crops. The RE-5 Zone District would allow the packing, processing and sale of such goods when the nature of the goods is not changed.

The SA-10 District would allow for packing, processing and sale for off-site goods when sold in conjunction with on-site products. In order to promote the viability of commercial agricultural pursuits, the SA-10 Zone District permits a 16 square foot unlit sign to advertise on-site activities rather than the six square foot sign which is permitted in the RE-5 Zone District. The SA-10 District would also allow Ranch Marketing and Winery activities as enumerated in the County Code. The Ranch Marketing and Winery uses are subject to minimum acreages of crops in production based on the acreage of the site. Because the project site is currently in use for the raising of domestic animals and no crops are currently in production, the site would not qualify for any provisions of Ranch Marketing or the Winery Ordinance.

Uses by Special Use Permit: The SA-10 Zone would permit Ranch Marketing and Winery activities by SUP which are enumerated in the Ranch Marketing and Winery Ordinances. Because the project site is less than 20-acres, any accessory buildings and the ability to pack, process or sell off-site goods would require approval of an SUP. The SA-10 Zone also permits agriculture labor housing through the SUP process.

Development Standards: The SA-10 Zone District would impose the same setback requirements as the existing RE-5 Zone District. All development would be required to maintain a 30 foot setback for residential development and 50 feet for agricultural uses. The SA-10 has a maximum building height of 45 feet for residential structures and has no maximum height for agricultural structures. Building coverage is limited to 15,000 square feet for residential development and has no coverage requirements for agricultural development.

Conclusion: The development standards of the SA-10 Zone District would allow a range of expanded agricultural activities on the site to be permitted by right. These uses would be more intensive than those allowed under the current RE-5 Zone District including more intensive processing and sales of goods on site, Ranch Marketing, and wineries. Due to the project site location within the Garden Valley Agricultural District and adjacent to a County Maintained Road, the proposed Rezone would be consistent in the project area and the range of expanded uses would not be detrimental to the surrounding area. For the adjacent properties that would be encumbered by the required 200-foot setback, Planning Services has recommended the properties be exempted from the setback to allow future development without requiring subsequent Ag Commission review.

ENVIRONMENTAL REVIEW

Staff has prepared a Negative Declaration (Exhibit I) to determine if the project may have a significant effect on the environment. It has been determined that the project would avoid any potentially significant environmental effects as the land use designation has been fully analyzed in the General Plan EIR. Staff has determined that there is no substantial evidence that the proposed project would have a significant effect on the environment.

In accordance with State Legislation (California Fish and Game Code Section 711.4), the project is subject to a fee of \$1,993.00 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 \$1,993.00 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.

SUPPORT INFORMATION

Attachments:

Attachment 1	Findings
Exhibit A	Location Map
Exhibit B	Assessor's Parcel Map
Exhibit C	General Plan Land Use Map
Exhibit D	Zoning Map
Exhibit E	Site Plan
Exhibit F	Aerial Photograph
Exhibit G	Ag Buffer Map
Exhibit H	Ag Commission Report
Exhibit I	Environmental Checklist Form

ATTACHMENT 1

FINDINGS

Z09-0007/Cornell

Planning Commission/December 10, 2009

Based on the review and analysis of this project by staff and affected agencies, and supported by discussion in the staff report and evidence in the record, the following findings should be made:

FINDINGS FOR APPROVAL

1.0 CEQA Findings

- 1.1 El Dorado County has considered the Negative Declaration together with the comments received and considered during the public review process. The 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 proposed project would 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 the Development Services Department - Planning Services at 2850 Fairlane Court, Placerville, CA, 95667.

2.0 General Plan Findings

- 2.1 The proposed Rezone to Select Agricultural (SA-10) Zone District would be consistent with the Rural Residential (RR) General Plan Land use designation.
- 2.2 In accordance with State law and pursuant to General Plan Policy 2.2.5.3, the County has evaluated the subject rezoning request based on the General Plan's general direction as to minimum parcel size or maximum allowable density and to assess whether changes in conditions are present that would support a higher density or intensity zoning district. The 19 specific criteria found within General Plan Policy 2.2.5.3 have been analyzed with regards to the above-referenced zone change request. Based on this analysis and the conclusions reached in the staff report, the site is found to be suitable to support the proposed use.

3.0 Agriculture Setback Exemption Findings

3.1 The following properties would be exempt from the 200-foot agricultural setback:

APN: 060-190-31

APN: 060-190-42

APN: 060-190-21

APN: 060-170-27

APN: 060-170-28

APN: 060-180-04

APN: 060-180-11

The listed properties range in size from 0.5 to 1.8 acres and due to their proximity in relation to the project parcel would be located entirely within the 200-foot setback. This limitation would negatively impact these properties and would require Agricultural Commission review of any future development on these parcels. This would be an unnecessary hardship for these parcels. Due to the potential location of expanded agricultural uses on the project site and the distance from the adjoining properties, there would be a low likelihood that the adjoining properties would negatively affect the agricultural potential of the site.