

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



**Agenda of:** January 28, 2010  
**Item No.:** 7  
**Staff:** Tom Dougherty

**GENERAL PLAN AMENDMENT**

**FILE NUMBER:** A09-0002/Paye  
**APPLICANTS:** John and Mark Paye  
**ENGINEER:** Dundas and Dundas  
**REQUEST:** Amend the land use designation from Open Space (OS) to Low Density Residential (LDR).  
**LOCATION:** Both sides of Wentworth Springs Road, at the intersection with Fox Run Road in the Georgetown area, Supervisorial District IV. (Exhibit A)  
**APN:** 061-071-26 (Exhibit B)  
**ACREAGE:** 105 acres  
**GENERAL PLAN:** Open Space (OS) (Exhibit C1)  
**ZONING:** Estate Residential Ten-Acre (RE-10) (Exhibit D)  
**ENVIRONMENTAL DOCUMENT:** Negative Declaration

**RECOMMENDATION:** Staff recommends the Planning Commission forward a recommendation to the Board of Supervisors to:

1. Adopt the Negative Declaration based on the Initial Study prepared by staff;
2. Approve General Plan Amendment A09-0002 subject to the Conditions of Approval in Attachment 1, based on the Findings in Attachment 2.

**BACKGROUND:** The applicant acquired the parcel in 1998 from the U.S. Bureau of Land Management (BLM) in a land exchange. It was previously U.S. government land administered by the BLM. The applicant received a patent (title), after the transfer. The parcel was one of many that were sold to the public by BLM in order to generate revenue to purchase recreational and watershed lands along the American River.

A Certificate of Compliance is required to recognize a 105-acre parcel identified by Assessor's Parcel Number 061-071-26 which was created when the U.S. Bureau of Land Management established a government patent for the parcel on August 3, 1998. The issuance of a Certificate of Compliance would acknowledge the County's acceptance of the parcel as legally created in accordance with the Subdivision Map Act and local subdivision ordinances, and would allow development of the property consistent with the Estate Residential Ten-Acre Zone District (RE-10). The applicants submitted an application for Conditional Certificate of Compliance COC09-0012 on June 11, 2009. That application shares the related Environmental Checklist, Discussion of Impacts with the subject General Plan Amendment and that document is included as Exhibit K.

Without the Certificate of Compliance the County cannot issue development permits, including building permits on the site. In this instance, the parcel would be issued a Conditional Certificate of Compliance requiring specific conditions be completed prior to the issuance of an unconditional or *clear* Certificate of Compliance. The parcel cannot be developed until such time as a *clear* Certificate of Compliance is recorded.

Upon fulfillment of the Conditions of Approval and subsequent recordation of a clear Certificate of Compliance, no residential development could occur without amending the current General Plan land use designation of OS which does not allow for residential development. Upon approval of an amendment to the General Plan to change the land use to LDR, the applicants would then have the ability to construct a single-family dwelling with a building permit.

Along with the approval of a Clear Certificate of Compliance, the project would directly allow the development of one primary and one secondary single-family dwelling, however, an approved General Plan amendment to LDR could potentially allow for a future subdivision of up to 21, 5-acre lots. That process would require the submittal of either a parcel or subdivision map application, and a rezone application to change the zoning to Estate Residential Five-Acre (RE-5). Those applications would require an environmental document to be prepared to examine the potential environmental impacts at that time of those specific project proposals. The potential environmental impacts are discussed in more detail in the Environmental Checklist, Discussion of Impacts included as Exhibit L.

**STAFF ANALYSIS**

**Project Description:** Amend the land use designation from Open Space (OS) to Low Density Residential (LDR). No development proposal accompanies this amendment request. The project site details are shown in Exhibit E.

**Site Description:** The project site consists of 105 acres and is located in the Georgetown area at approximate elevations between the 2,800 and 3,000-foot above mean sea level (Exhibit G). The primary on-site biological communities include annual grasses, and montaine hardwood conifer. Oak woodland canopy currently covers approximately five percent of the project site. The project site soils consist of Mariposa very rocky silt loam (MbE) 3 to 50 percent slopes, Mariposa very rocky silt loam (MbF) 50 to 70 percent slopes, Mariposa-Josephine very rocky loams loam (McE) 15 to 50 percent slopes, and Josephine silt loam (JtD) 15 to 30 percent slopes (Exhibit F). Approximately 10 percent of the site contains slopes in excess of 30 percent, as shown in Exhibit H. There has been substantial disturbance to the ground service throughout the parcel as a result of past mining activity, placement of electrical distribution and water lines, and extensive access road grading for past logging/timber harvest plan activities. The site contains scattered shallow trenches, pits tailings and waste rock from previous mining activities. There is one unnamed ephemeral stream course present within the northern portion of the parcel.

**Adjacent Land Uses:**

	<b>Zoning</b>	<b>General Plan</b>	<b>Land Use/Improvements</b>
<b>Site</b>	RE-10	OS	Open Space-resource management/Vacant
<b>North</b>	RE-10/RA-20	LDR	Residential/Single family residences, tree farm northeast
<b>South</b>	RE-5	LDR	Residential/Single family residences
<b>East</b>	RE-5	LDR	Residential/Single family residences
<b>West</b>	RE-10/RE-5	LDR	Residential/Single family residences

**Discussion:** The surrounding parcels have residential uses or are designated for residential uses by the General Plan. There is one 114-acre parcel adjoining the northeast corner that is agriculturally zoned and has an active Christmas tree farm. The proposed residential use would be compatible with the surrounding residential development, and would be a compatible use within an area planned for residential land use, (see Exhibits J-1, J-2, K-1 and K-2).

**Access and Circulation:** The General Plan use designation amendment project does not require preparation of a traffic study. However, future development of single family lots exceeding 9 lots would require preparation of a traffic study. Site access is provided via Wentworth Springs Road, which is a county maintained road and Fox Run Road, Fox Kit Court, and Raintree Road which are non-county maintained roadways. A single-family dwelling would require driveway improvements to Georgetown Fire Code standards. A future parcel or subdivision map would require dedications and widening of right-of-ways and road improvements to County and

Georgetown Fire Code Standards. Depending on the scale of a single family development proposed on the site in the future, a traffic study may or may not be required and DOT would determine a proposed project's potential impacts. Depending on the results of a traffic study, additional offsite improvements or mitigations may be necessary at that time. A future development would be required to obtain encroachment permits from DOT for all encroachments to a County road.

**General Plan:** The subject property is designated as Open Space (OS) on the General Plan Land Use Map. The OS land use designation establishes areas designated *public lands under governmental title (County, State Parks, BLM, U.S. Bureau of Reclamation, U.S. Forest Service, etc.)*, where no development other than that specifically needed for government-related open space uses is desired. This land use includes State parks, ecological preserves, and public lands acquired specifically for open space uses.

**Rural Centers:** **Policy 2.1.2.1** established the Georgetown Rural Center boundary. The subject parcel is located within that boundary. **Policy 2.1.2.2** defines Rural Centers as *areas of higher intensity development throughout the rural areas of the County based on the availability of infrastructure, public services, existing uses, parcelization, impact on natural resources, etc.* **Policy 2.1.2.3** defines the purpose of Rural Centers as being *areas intended to meet the commercial and service needs of the residents of the Rural Centers and Rural Regions, the predominant land use type within Rural Centers shall be commercial and higher density residential development.* **Land Use Compatibility:** **Policy 2.2.5.21** directs that *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 project is proposed.*

**Consistent:** The subject parcel was previously owned by the U.S. Bureau of Land Management (BLM) for the purpose of protecting potential mineral and timber resources. The submitted *Cultural Resource Survey*, Peter Jensen, dated January 20, 2009 reported evidence of a prior history of surface mining and logging operations generally over the entire parcel. It further reported that no significant historical or prehistoric resources are present on the parcel. By creating a U.S.A. Patent and then transferring the parcel to private ownership, the BLM relinquished their preservation and protection responsibility.

The General Plan does not state a required parcel size for lands designated OS and does not permit residential development. OS is typically not sub-dividable. The subject 105-acre parcel does conform to the RE-10 zone district minimum size of ten acres. A General Plan Amendment to Low Density Residential (LDR) land use would permit single family residential development.

The amendment from OS to LDR would also allow for an area where the absence or reduced level of infrastructure including roads, water lines and sewer lines does not justify higher densities, where the topography poses a constraint to higher density; and as a transitional land use between the more highly developed and the more rural areas of the County. The maximum allowable density would be one dwelling unit per 5.0 acres. This would represent development of residential lands within The Georgetown Rural Center for residential uses. As proposed, the LDR designation would be compatible with the existing and proposed surrounding single-family residential development in the area. The RE-10 zoning would require at a minimum, a building

permit application be submitted for review and approved by Planning Services prior to any development. The project site is suitable for residential development and the initial study did not find any significant impacts that could be associated with development of the site.

Pursuant to Table 2-1 in the General Plan, the LDR designation is considered appropriate within Rural Center planning concept area. The project site is located within the Georgetown Rural Center boundary. The proposed General Plan Amendment would be appropriate due to the surrounding residential development in the vicinity of the project site. Therefore, the proposed project would be compatible with the surrounding land uses.

Adequate Public Utilities: **Policy 5.1.2.1** requires that there be adequate public utilities and services including water supply, wastewater treatment and disposal, solid waste disposal capacity, storm drainage, fire and police protection, and ambulance service exist or be available to the subject discretionary project. Water Supply and Fire Protection: **Policy 5.2.1.2** directs that an adequate quantity and quality of water for all uses, including fire protection, shall be provided for discretionary development. **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.

**Consistent:** Potable water is not to be provided to the site; however there are Georgetown Divide Public Utility District (GDPUD) facilities that currently transverse the interior of the parcel. In a letter dated May 7, 2009, GPPUD has confirmed that their existing facilities could be available to the site with the expansion of their facilities at the applicant's expense, but there are no public sewer facilities currently available. Pacific Gas and Electric (PG&E) and telephone overhead facilities transverse the site through an easement cleared of vegetation.

Prior to issuance of any future building permit or filing of a Parcel or Subdivision Map, a safe and reliable water source would be required for all lots or parcels. For fire protection services, fire hydrants and minimum fire flow would be required by the Georgetown Fire Protection District, prior to finaling or filing of any future development permit. Therefore, the project would be in compliance with these General Plan Policies.

Adequate Access for Emergencies: **Policy 6.2.3.2** directs the applicant to demonstrate that adequate access exists, or can be provided for emergency vehicles and private vehicles to access and evacuate the area.

**Consistent:** A future development permit would be required to comply with the Georgetown Fire Protection District minimum Fire Safe standards for the access road and turnaround capacity with project conditions. A 20-foot wide fire lane would need to be maintained with an approved turnaround. A single family dwelling would be required to have driveway and turnaround onsite. Therefore, the project would be in compliance with the General Plan Policy.

Rare Plants: **Policy 7.4.1.1** directs that the County *shall provide for the permanent protection of the eight sensitive plant species known as the Pine Hill endemics and their habitat through the establishment and management of ecological preserves consistent with County Code Chapter*

*17.71 and the USFWS's Gabbro Soil Plants for the Central Sierra Nevada Foothills Recovery Plan (USFWS 2002).*

**Consistent:** The proposed project is not located in an El Dorado County plant Mitigation Area and is not located within any Ecological Preserve overlay designation. Review of the California Natural Diversity Database G.I.S. layer did not reveal the presence of rare or threatened species in the project vicinity. No development plan accompanies the project proposal. A future development project would be required to do a full biological study examining the potential impacts of that particular proposal. Therefore, the project would be in compliance with the General Plan Policy.

**Oak Canopy Coverage:** **Policy 7.4.4.4** establishes the native oak tree canopy retention and replacement standards.

**Consistent:** The site is dominated by younger second growth conifers, the result of previous logging activities. Second growth, multi-trunked black oaks constitute approximately five percent of the tree canopy coverage within the parcel. Policy 7.4.4.4 establishes the native oak tree canopy retention and replacement standards and requires that 90 percent of the existing oak tree canopy coverage be retained. No oak canopy would be removed as part of the COC project as no development could occur without a General Plan amendment. Impacts could occur for the General Plan amendment project because approval would permit the construction of one primary and secondary unit directly and up to 21 parcels with the same if a rezone to RE-5 would follow. A project for any future subdivision would be required to comply with the provisions of Policy 7.4.4.4. Therefore, the project would be in compliance with the General Plan Policy.

**Conflicts with Agriculture:** **Policies 8.1.3.1** (ten-acre buffer for agriculturally zoned lands), **8.1.3.2** (200-foot setback buffer for agriculturally zoned lands):

**Consistent:** There is one 114-acre parcel adjoining the northeast corner that is agriculturally zoned and has an active Christmas tree farm which therefore requires the project to be reviewed for potential conflicts with Agriculture. Review of the General Plan land use map for the project area indicates that there are no areas designated as being within the Agricultural District (A) General Plan land use overlay designation within approximately 2.5 miles of the project. The project would not diminish or impair the existing or potential agricultural use, and would not create conflicts between residential and agricultural activities. Staff has found the proposed project would not cause significant conflicts with agriculturally-zoned lands because of the previously stated reasons, as well as the recommendation of approval by the Agricultural Commission and could be approved as proposed.

**Agricultural Commission review:** **Policy 8.1.4.1** directs that *the County Agricultural Commission review all discretionary development applications and the location of proposed public facilities involving land zoned for or designated agriculture, or lands adjacent to such lands, and shall make recommendations to the reviewing authority. Before granting approval, a determination would be made by the approving authority that the proposed use would not intensify existing conflicts or add new conflicts between adjacent residential areas and agricultural activities.*

**Consistent:** On November 18, 2009, the El Dorado County Agricultural Commission reviewed and discussed the subject application requests, as well as the County Agriculture staff's observations and recommendations. The full text of the Memo from the Agricultural Commissioners to Planning staff is included as Exhibit I. The Commission supported the applicant's project request but made a statement that they would prefer that the zoning remain RE-10 in the future. The project does not include a development proposal or rezone request at this time. Planning staff has determined the project would not significantly intensify the impacts to agriculturally zoned land and the General Plan Amendment request could be approved.

**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 is consistent with the General Plan. Findings of consistency with the General Plan are provided in Attachment 1.

**Zoning:** The project site is zoned Estate Residential Ten-Acre (RE-10) which is intended to provide for the orderly development of land having sufficient space and natural conditions compatible to residential and accessory agricultural and horticultural pursuits and to provide for the protection from encroachment of unrelated uses tending to have adverse effects on the development of the areas so designated. Upon recordation of a clear Certificate of Compliance, the project would allow a single-family residential unit and second residential unit on a 105-acre parcel which would be consistent with the RE-10 zone district. Table 2.4 of the 2004 General Plan shows RE-10 zoning is not compatible with the OS land use designation but would be compatible with the proposed LDR General Plan land use designation.

## **ENVIRONMENTAL REVIEW**

Staff has prepared an Initial Study (Environmental Checklist with Discussion attached as Exhibit L) to determine if the proposed project may have a significant effect on the environment. Based on the Initial Study, staff has determined that there is no substantial evidence that the proposed project would have a significant effect on the environment, and a Negative Declaration has been prepared.

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.). In accordance with State Legislation (California Fish and Game Code Section 711.4), the project is subject to a fee of \$2,010.25 after approval, but prior to the County filing the Notice of Determination on the project. This fee plus a \$50.00 administration fee, is to be submitted to Planning Services and must be made payable to El Dorado County. The \$2,010.25 is forwarded to the State Department of Fish and Game and is used to help defray the cost of managing and protecting the State's fish and wildlife resources.

## SUPPORT INFORMATION

### Attachments to Staff Report:

Attachment 1 .....	Findings
Exhibit A .....	Location Map
Exhibit B .....	Assessor's Parcel Map
Exhibit C-1 .....	General Plan Land Use Map
Exhibit C-2 .....	Georgetown Rural Center Map
Exhibit D .....	Zoning Map
Exhibit E .....	Site Plan
Exhibit F .....	Soils
Exhibit G .....	Georgetown U.S.G.S Quadrangle
Exhibit H .....	Slope Map
Exhibit I .....	Agricultural Commission Memo to Planning Services dated November 25, 2009, (three pages)
Exhibits J-1 to J-3 .....	Site visit photographs
Exhibits K-1, K-2 .....	Aerial photos
Exhibit L .....	Environmental Checklist and Discussion of Impacts

# ATTACHMENT 1

## FINDINGS

**FILE NUMBER A09-0002/Paye**  
January 28, 2010 Planning Commission Hearing

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 can be made:

### **1.0 CEQA Findings**

- 1.1 El Dorado County has considered the Negative Declaration together with the comments received during the public review process. The proposed General Plan Amendment project, will not have a significant effect on the environment. The impacts on natural resources were examined by an Initial Study that recommends approval of a Negative Declaration, that tiered off information contained in the El Dorado County General Plan EIR, (EDAW, May 2003). The Negative Declaration reflects the independent judgment of the County and has been completed in compliance with CEQA.
- 1.2 The documents and other materials which constitute the record of proceedings upon which this decision is base are in the custody of the Development Services-Planning Services at 2850 Fairlane Court, Placerville, CA.

### **2.0 General Plan Findings**

- 2.1 The project is consistent with the intent of General Plan Policies 2.1.2.1 (Rural Center boundaries), 2.1.2.2 (Rural Center definition), 2.1.2.3 (Rural Center purpose), .2.5.21 (compatibility with surroundings), 5.1.2.1 (adequate utilities), 5.2.1.2 and 5.7.1.1 (adequate emergency water and related facilities), 6.2.3.2 (adequate access), 7.4.4.1 (rare plants), 7.4.4.4 (oak canopy), 8.1.3.1, 8.1.3.2, and 8.1.4.1 (Agricultural Commission review), because the project would have minimal impacts on visual resources, existing utilities, and on existing emergency response times. The Agricultural Commission has reviewed the project, found no conflicts with agriculture, and has recommended approval. There are adequate services to facilitate the site, such as water, power and solid waste. The project provides residential opportunities within the Georgetown Rural Center area.
- 2.2 The change in the land use designation provides consistency with the existing zoning and is consistent with the objectives of Rural Center Planning Concept Area and General Plan Policy 2.2.5.2. The change in land use designation from Open Space to Low Density Residential and can be found to be consistent with General Plan objectives and policies. The parcel is located within the Georgetown Rural Center, is surrounded on all sides by Low Density Residential (LDR) land use designations and meets the General Plan LDR description. Support utilities and infrastructure are currently available at the site.