

1 **NEVADA COUNTY PLANNING COMMISSION**
2 **NEVADA COUNTY, CALIFORNIA**

3
4 **MINUTES** of the meeting of March 25, 2021, 1:30 p.m., Board Chambers, Eric Rood
5 Administration Center, 950 Maidu Avenue, Nevada City, California via remote
6

7
8 **MEMBERS PRESENT:** Commissioners Duncan, Coleman-Hunt, Greeno, Ingram Spencer, and
9 Mastrodonato.

10
11 **MEMBERS ABSENT:** None.

12
13 **STAFF PRESENT:** Planning Director, Brian Foss; Deputy County Counsel, Rhetta VanderPloeg;
14 Director of Public Works, Trisha Tillotson; Principal Planner, Tyler Barrington; Senior Planner
15 Matt Kelley; County Fire Prevention Planner, Scott Eckman; Administrative Assistant, Shannon
16 Paulus.

17
18
19 **PUBLIC HEARINGS:**

- 20
21 1. Rincon Del Rio Page 2, Line 54
22 PLN19-0024; TFM19-0008; CUP19-0010; MGT20-0001; PFX19-0003; MIS20-0001; EIS19-
23 0010
24

25 **STANDING ORDERS:** Salute to the Flag - Roll Call - Corrections to Agenda.

26
27 **CALL MEETING TO ORDER:** The meeting was called to order at 1:30 p.m. Roll call was
28 taken.

29
30 **CHANGES TO AGENDA:** None.

31
32 **PUBLIC COMMENT:** Members of the public shall be allowed to address the Commission on
33 items not appearing on the agenda which are of interest to the public and are within the subject
34 matter jurisdiction of the Planning Commission, provided that no action shall be taken unless
35 otherwise authorized by Subdivision (6) of Section 54954.2 of the Government Code.

36
37 County Counsel Katharine Elliot introduced herself to the Commission and thanked the
38 Commissioners for their service.

39
40 Elizabeth Vian Jones of 22990 Hidden Ranch Road began to discuss the Rincon Del Rio project.
41 She was advised that the item was on the agenda and time would be allotted to discuss the item
42 later.

43
44 **COMMISSION BUSINESS:** None

45
46 **CONSENT ITEMS:**

- 47
48 1. PLN21-0036; MIS21-0002: Annual Development Agreement review for Harmony Ridge
49

50 **Motion** to approve the Consent Item by Commissioner Ingram Spencer; **second** by Commissioner
51 Mastrodonato. **Motion carried on a voice vote 5/0.**

52
53 **PUBLIC HEARING:**

54
55 **PLN19-0024; TFM19-0008; CUP19-0010; MGT20-0001; PFX19-0003; MIS20-0001; EIS19-**
56 **0010:** A combined application for a Use Permit (CUP19-0010) to amend the Comprehensive
57 Master Plan and revise the Tentative Final Map Subdivision Map (TFM19-0008), which was
58 approved to facilitate the development of the subject parcels as a 345 Unit, Continuing Care
59 Retirement Community know as Rincon del Rio, approved on April 9 2013 by the Nevada County
60 Board of Supervisors (EIR10-001, ORD09-002, GP11-001, GP11-002, Z10-003, FM09-001, U09-
61 007, MGT09-008, MI10-010).

62
63 As proposed, the modified project, would amend the approved Comprehensive Master Plan to
64 allow for a revision and relocation of some of the previously approved campus uses and to allow
65 for individual fee title ownership of the independent living single-family residential attached and
66 detached units, located within the project site. As proposed, the modified project would also be a
67 Continuing Care Retirement Community (CCRC), known as Rincon del Rio, offering services and
68 housing in an “age restricted campus setting” designed to serve adults 55 years and older, who are
69 seeking to downsize their living environment, but are still physically and socially active. As
70 proposed, the revised project would be similarly designed as the original approved project and
71 would serve a senior population of 415 people within 345 living units consisting of the following
72 revised elements as shown below:

- 73
74
- 75 • Independent Living (Detached) Single-Family Residential Cottages and Bungalows.
 - 76 • Independent Living 5-Plex and 14-Plex multi-tenant condominium single-ownership units.
 - 77 • Independent Living Residential Loft multi-tenant condominium single-ownership units.
 - 78 • Group Home Memory/Assisted Living Facility.
 - 79 • Twenty-Four (24) Condominium Units that would be retained by the applicant as rental units
80 that would be utilized as Independent Living Units whose ownership would remain the
81 applicant.

82 Development of the modified project would be clustered within a 48-acre envelope located on the
83 western half of the 215-acre site, with the remaining approximately 167 acres to remain in open
84 space. The modified project would include a village center for onsite commercial services for
85 residents. The project would also include recreational elements such as walking trails, community
86 gardens, aquatic fitness center, bocce ball courts, tennis courts and a pickle ball area.

87 The modified project would also include the approval of a Tentative Final Map (TFM19-0008) to
88 subdivide the parcel from four parcels into 102 Single-Family Residential Parcels ranging in size
89 from 4,699 square feet to 8,391 square feet. 221 Single Ownership Condominium parcels ranging
90 in size from 1,300 square feet to 1,500 square feet. 23 common area parcels ranging in size from
91 11,807 square feet to 130.42 acres for parking, landscaping, open space, Village Center, Group
92 House/Memory Care and other common facilities.

93 The modified project as proposed would include three Management Plan (MGT20-0001)
94 components for proposed encroachment into identified sensitive resources including: Steep
95 Slopes, Landmark Oak Trees, Landmark Oak Groves and Water Resources. The modified project
96 as proposed would also include a Petition for Exception (PFX19-0003) to Road Standards on
97 Rodeo Flat Road and Rincon Way as well as for the interior primary access roads. The modified

98 project as proposed would also include a revised Development Agreement (MIS20-0001) for
99 operational aspects of the proposed Continuing Care Retirement Community.
100

101 **APN:** 057-130-013; 057-240-017; 057-240-018; 057-240-019. **LOCATION:** The east terminus
102 of Rincon Way, one-half mile east of State Route 49, and south of the Lake of the Pines
103 Community. **RECOMMENDED ENVIRONMENTAL DETERMINATION:** Recommend
104 that the Board of Supervisors approve a Resolution approving an Addendum (EIS19-0010) to the
105 certified Final Rincon del Rio Environmental Impact Report (EIR10-001/SCH#2011052030).
106 **RECOMMENDED PROJECT ACTION:** Recommend that the Board of Supervisors approve
107 the proposed Petition for Exceptions (PFX19-0003), Management Plan (MGT20-0001), Tentative
108 Final Map (TFM19-0008), Conditional Use Permit (CUP19-0010) and Second Amendment to the
109 Development Agreement (MIS20-0001). **PLANNER:** Matt Kelley, Senior Planner
110

111 Senior Planner Matt Kelley introduced himself to the Commission and began his presentation. He
112 reviewed the zoning, project background, proposed changes, amendments to the Development
113 Agreement, project phasing, site planning and design, water service and wastewater options, fire
114 suppression, traffic, emergency access, continuing care retirement community operation,
115 environmental review, and comments received on the project. He ended his presentation with staff
116 recommendations and offered to answer any questions.
117

118 Chair Duncan asked if the Commission had any questions for staff. Hearing none, she asked to
119 hear from the project representative.
120

121 Martin Wood of SCO Planning and Engineering introduced himself to the Commission and began
122 his presentation. He discussed changes to the project, roadway design, fire access, offsite utility
123 options, common area design, designs of the bungalows and cottages, and the value of the project.
124 He finished his presentation by introducing the applicants legal counsel, Marsha Burch and Bruce
125 Inman, who were also present in the meeting and offered to answer any questions.
126

127 Chair Duncan asked for questions from the Commission.
128

129 Commissioner Greeno asked how the lower traffic count was going to be achieved.
130

131 Mr. Wood answered that a traffic consultant had looked at the current ITE manual for CCRC
132 development and found that the count was less.
133

134 Planner Kelley answered that the applicant did do an updated traffic study for the proposed
135 modified project which was reviewed by the Nevada County Public Works Department. He added
136 that the ITE manual that was used for CCRCs contained additional traffic data. He also discussed
137 the additional improvements to Rincon Way and Hidden Ranch Road to local Class II standards.
138

139 Mr. Wood added that less service and retail service were being offered in the modified project.
140

141 Commissioner Ingram Spencer asked how the 24 residential units would keep the cap at the
142 number indicated and if it would be through limiting rentals.
143

144 Mr. Wood answered that was the general idea. The 24 residential units were to remain with the
145 applicant, who could decline to rent some units or elect to only rent to single type occupancy. He
146 added that in the studies of age restricted communities the average occupancy was 1.2 people per
147 household or less.

148
149 Commissioner Coleman-Hunt asked if the residents would have to pay for NID hookups and fire
150 hydrants under Alternative B.

151
152 Mr. Wood answered that a significant amount of water line would need to be installed under
153 Alternative B, which would be much more expensive for the developer than Alternative A. He
154 added that it did have some advantages. He said that fire hydrants would be installed as part of the
155 development, however the individual connection and meter would be the residents responsibility
156 to pay for.

157
158 Commissioner Coleman-Hunt asked if they would need to also pay for the hydrants.

159
160 Mr. Wood answered that hydrants would be installed by the developer.

161
162 Chair Duncan thanked Commissioner Coleman-Hunt for asking the question, as that did clarify
163 where the cost would be laid if Alternative B were to be used. She asked for additional questions.

164
165 Chair Duncan opened public comment at 2:53 pm.

166
167 Elizabeth Vian reintroduced herself to the Commission. She stated that she objected to Alternative
168 B for sewer and water main. She stated it was not part of the original agreement and settlement
169 plan and that it would impact Hidden Ranch Estates immensely. She said it was proposed to run
170 the length of the entire subdivision, compromising their private roads and would subject property
171 owners to the requirements of Section L-VI 1.7, Connection to Public Sewer System, which she
172 then read. She stated that the connection fees would be at the property owner's expense. She further
173 objected to the mapping of the proposed offsite plan map which shows Hidden Ranch Road being
174 extended to meet Sharon Jack Road, which acts as access to Highway 49. She stated that if the
175 easements were obtained it would be possible for a through road to be put in past all of their homes.
176 She said their quiet subdivision would become a highway with increased traffic and would shatter
177 their Nevada County rural way of life so touted in the RDR. She asked that Hidden Ranch Estates
178 be granted the same statutes and force of law that denied Darkhorse entry into Lake of the Pines.

179
180 Chair Duncan thanked Ms. Vian.

181
182 Sara Coppin of 11075 Treehenge Lane, adjacent to the eastern part of the Rincon Development,
183 introduced herself to the Commission. She stated that she had concerns about the phasing of the
184 project and placing many of the amenities to the end phases and front loading the phasing with
185 residential development. She was concerned that the development would create an area with a lot
186 of residents and none of the amenities which were the justification for the project, not fulfilling
187 the CCRC model. She cited Darkhorse as an example of a developer coming in with a certain
188 intent and not seeing it through. She asked that the County consider requiring bonds of the
189 developer to push through the phases instead of it being contingent on meeting occupancy
190 requirements. She added that she would love to see the area remain undeveloped, however that
191 wasn't where the project was at. She understood why the development would be a lovely place to
192 grow old, but only if it was completed. She further expressed her concern over the lighting with
193 over 200 new lights. She strongly encouraged the Planners to consider that.

194
195 Vanessa Laidley Tennes of 14207 Tim Burr Lane, the past administrator and current executive
196 director consultant of Sierra View Manor introduced herself to the Commission. She stated that

197 she had opened 2 local assisted living facilities in the area and had worked in skilled nursing
198 facilities for a total of 31 years. She expressed her support and availability to Rincon Del Rio for
199 senior care insights.

200
201 Peter Guilbert of 23189 Hidden Ranch Road, a retired Cal Fire Division Chief with 35 years of
202 wildland experience with a specialization in Fire Danger and Fire Behavior, introduced himself to
203 the Commission. He commented that the placement of a high-density subdivision in an isolated
204 area placed those within the subdivision and those around the subdivision in a deadly situation. He
205 discussed examples of people being trapped and unable to escape large fast-moving fires and added
206 that those conditions were similar to what was proposed with the project. He expressed his concern
207 of 300 plus cars trying to escape to Highway 49 on a two-lane road, which could be hindered by
208 traffic. He stated that in similar instances people have abandoned their vehicles in an attempt to
209 run for safety, further blocking the road for others and fire suppression equipment. He added that
210 granting an exemption from a Class 1 road would further enable the deadly situation and waiving
211 the roadside vegetation clearance would increase the danger by exposing those trying to evacuate
212 to more flames and smoke. He said that the emergency equipment available to respond to fire has
213 not been updated in a long time, and that Cal Fire has not added any additional stations in decades.
214 He stated that the Higgins Fire volunteers were wonderful, however they would be quickly
215 overwhelmed in a fast-moving fire situation, and that augmentation of equipment took time due to
216 long travel times. He stated that often Cal Fire will send crews out to larger fires and leave a small
217 force to cover new emergencies, and that with drought and climate change this would be a common
218 scenario. He argued that this project would be setting up a situation similar to Paradise in Butte
219 County, Napa, Sonoma, Santa Rosa, Redding, Oakland, and others. He stated that the original
220 approved project relied on buses to evacuate the residents, reducing the traffic jam. He stated that
221 individual ownership of units within the development would increase the amount of traffic during
222 evacuations, making for serious and possibly deadly situations.

223
224 Theresa Dietrich of 10356 Lazy Valley Road in Penn Valley, the Legislative Affairs Chair for the
225 Nevada County Association of Realtors introduced herself to the Commission. She stated that the
226 Association strongly supported the updated version of Rincon Del Rio. They felt that it filled a gap
227 within the housing supply and would help to keep very vital seniors in Nevada County and keep
228 them from moving to Placer County or other places. She stated that seniors in the county
229 volunteered their time, donated to nonprofits, and lived a very vibrant life. She stated that they
230 would like to see them able to stay here while being able to sell their unmanageable homes, opening
231 much needed housing stock in the community. She stated that the project also created a huge
232 amount of tax revenue for the County. She added that because of the age of the occupants and
233 cluster of housing it would have a diminished demand on local infrastructure as the homes would
234 be in a self-contained community, which supported other services. They saw it as a win-win for
235 Nevada County and asked that the Planning Commission issue a favorable determination.

236
237 Pat Seeley, one of the plaintiffs of the lawsuit with Rincon Del Rio and a co-signer on the
238 settlement agreement with Young Enterprises introduced herself to the Commission. As a plaintiff
239 she strongly felt that as presented the project should not be approved by the Planning Commission
240 because it violated the settlement agreement they entered into with Young Enterprises and Nevada
241 County. She stated that a huge element was being changed, going from a non-entry model plan to
242 an equity plan. She stated that an equity agreement was never presented to them and was never
243 part of the settlement agreement, the equity plan being homeownership. She said that she respected
244 realtors and understood that it was income for them, however that was not how the model had been
245 planned. She said that it had been planned as total ownership by Young Enterprises, giving them

246 the ability to control the amount of people living in the facility and control over the density of the
247 traffic. She said that the plot map had been changed with individually owned parcels which was
248 not in the original agreement. She said that the original agreement had been for 14 parcel changes.
249 She further stated that the inability to enforce the population cap was a huge violation of the
250 settlement agreement, and that the population cap would not be maintained under individual
251 ownership. She said those were the concerns of Keep Nevada County Rural.

252
253 Karen Abbott of 22595 Hidden Ranch Road introduced herself to the Commission, stating she
254 would be one of the people impacted by Alternative B, which had been presented by the developers
255 to the impacted neighbors three times and had been rejected. She stated that they were very
256 concerned about city water and city sewer coming down their road and the associated fees. She
257 also pointed out that the proposed project had reduced services and had hardly any assisted living.
258 The original project was supposed to be a self-contained assisted living facility where Carol Young
259 had stated that the base age group was going to be 83 years old. They had figured it would be
260 closer to 75-80 years of age which would reduce traffic and other impacts. She stated now it was
261 going to be a 55+ very active individually owned operation in which they would not be able to
262 control the population or who lived in the houses. She added that some of the houses had two
263 bedrooms and a den, and if you were to put an armoire in the den it would become a third bedroom
264 in which you could have 4-6 people. Although it was age restricted a 75-year-old parent would be
265 able to have their 55-year-old kid with them. She stated that the original project had been split into
266 14 parcels and the current project was 323 parcels which was a big deal. She further argued that
267 Representative Martin Wood had stated that the reduction in services had been because of services
268 like Amazon, Walmart, and Uber Eats and that the reduction of services would result in less traffic,
269 however it would result in more traffic because of those delivery services. She said it was one way
270 or the other, you either were self-contained and had the services available to bring traffic down or
271 you have services coming in which results in increased traffic. She stated that within the original
272 settlement agreement the road was meant to be Class 1, she wasn't sure how it was changed to
273 Class 2. She also stated that the width of the road was a problem when it came to fire evacuation.
274 She asked if the letters that had been turned in to staff from herself, Virginia Guilbert, and Don
275 Mooney for the Planning Commission to read had been given.

276
277 Chair Duncan confirmed that those letters had already been distributed to the Commission.

278
279 Robin Davies of the Greater Grass Valley Chamber of Commerce, 128 East Main Street,
280 introduced herself to the Commission. She expressed the Chambers support for the amendments
281 to the approved Rincon Del Rio project. She stated that it was the mission of the Chamber to
282 service their members by facilitating business development and responsible business growth. She
283 said that the recent focus of the Chambers' Community Affairs Committee was housing, and the
284 need for housing was more imperative than ever. She added that the Rincon Del Rio project was a
285 good fit for the community, with 345 units of independent senior living and all elements of the
286 unique lifestyle facility have garnered the support of the Chamber. Additionally, the project would
287 create high paying jobs which would contribute to their economic vitality, and they supported the
288 green building amendment which supported net zero environmental goals. She thanked the
289 Commission for the opportunity to speak and she encouraged the Commission to approve the
290 amendments to the Rincon Del Rio Master Plan as recommended.

291
292 Virginia Akers of 23189 Hidden Ranch Road introduced herself to the Commission. She stated that
293 she had written an exhaustive letter to the Commission with 10 pages of signatures supporting the
294 contentions in the letter which Chair Duncan had acknowledged they had received. She stated that

295 one of their main concerns was maintaining the population cap. She stated that while the County
296 had proposed 5 alternatives to maintaining the population cap, they believed that those were
297 insufficient, and there was no way to practically control the cap with the Department of Real Estate,
298 the Department of Social Services, or Nevada County Counsel. She read a portion of the
299 Conditions of Approval and the Mitigation Monitoring and Reporting, discussing that the County
300 had the right but not the duty to enforce the declaration. She further asked how the population cap
301 would be addressed during the Annual Review and how it would be addressed the other 364 days
302 of the year. She stated that there was no enforcement provision and no penalty provision in the
303 event the population cap was exceeded, nor any provision of who would be expelled. She said that
304 all the reporting requirements were self-regulating and self-reporting, with no agency with legal
305 authority or oversight to enforce the provision. She said that they were tasking the homeowner's
306 association with enforcement of the population cap and she did not believe they had any right to
307 expel private property owners. In addition to the developer not being able to build new units until
308 70% occupancy of constructed units was attained, she felt the only enforceable provision would
309 be to monitor the population cap as phases were completed. She was further concerned that what
310 was supposed to be a fire access road going out through Rodeo Flat could be used to evacuate Lake
311 of the Pines and the surrounding areas in the event of an accident on Combie Road, which had
312 never been the intention. She summarized that there were no enforceable methods proposed at this
313 time to ensure the population cap would be maintained. She added that as outlined in her letter,
314 she felt that the proposed modifications to the project violated the settlement agreement from 2013.

315
316 Don Mooney, an attorney for Keep Nevada County Rural, introduced himself to the Commission.
317 He said that he did send a letter to the Commission which he hoped they had a chance to read. He
318 expressed his concern about the enforceability of the population cap and that the settlement
319 agreement had no provisions for settlement parties to assign their duties or obligations under the
320 agreement. He said that the homeowner's association would be responsible for enforcement which
321 would be assigning under the settlement agreement to a third party. He said a third party would
322 not be bound by the settlement agreement which was a concern. He further asked if the population
323 were to exceed the cap how the determination would be made to remove residents, he did not feel
324 that the County would want to be taking eviction actions against senior residents. He asked if the
325 developer would remove some of the renters in this case and how much time would be allotted to
326 them to be removed. He also discussed temporary occupants, stating no definition was given. He
327 asked that the Commission read the letters that had been supplied to them as they detailed their
328 concerns.

329
330 Barbara Bashall, the Government Affairs Manager for the Nevada County Contractors
331 Association, introduced herself to the Commission. She offered her support for the Rincon Del
332 Rio amended project. She stated she had sent in a letter as well; which she was aware the
333 Commission had already received. She recognized the need for additional senior housing, and
334 stated it was a great project with a lot of public benefit. She also discussed additional benefits from
335 the project such as fire access, increased amenities, and additional funds which would go to the
336 local fire department to strengthen it. She encouraged the Commission to recommend approval to
337 the Board of Supervisors.

338
339 Steve Jones of 22990 Hidden Ranch Road disagreed with the Addendum on many fronts. He stated
340 that he did not believe that Planner Kelley or County Fire Prevention Planner Scott Eckman knew
341 about a new law which had come into effect in 2021, Title 24, California Code of Regulations,
342 Division 1.5, Chapter 7, Subchapter 2, Article 1-5 – State Minimum Fire Regulations for 2021. He
343 stated he was a retired firefighter starting in the United States Air Force and a dozer operator for

344 Cal Fire, with additional experience in municipal firefighting in Idaho and Rio Linda, California.
345 He stated he also had a Class 3 fire engine in his driveway to augment Higgins Fire, and
346 complimented Chief Good on his responsibility. He stated that the County did not approve the
347 maintenance fee he wanted, and that resulted in many residents in the area losing fire insurance.
348 He stated they were in a high fire density zone with wind driven fires. He added that it was a
349 beautiful looking project, however the wetland and box canyon it was in with no place for people
350 to go was beyond reproach. He stated he had spoken with Steve Crowder, the Mayor of Paradise,
351 who had looked at the project himself and stated it was a disaster waiting to happen. He stated that
352 on the day of the Paradise Fire Mayor Crowder had been directing traffic out of a neighborhood,
353 which bottlenecked and resulted in them not being able to get fire equipment in or cars out, hence
354 84 people lost their lives. He said it was the very same scenario, with a road that was not sufficient
355 to get a 80,000lb truck with a bulldozer on it with a 14 foot blade on Rincon. He stated it would
356 not happen and they would have a mass casualty incident. He stated he had a conversation with
357 Fire Prevention Planner Eckman and Planner Kelley the previous week and brought these concerns
358 to their attention, and suggested they read Title 14 against all road standards. He implored them to
359 not accept the Addendum.

360
361 Trent Taylor of 23257 Hidden Ranch Road introduced himself to the Commission. He stated he
362 was a retired Sheriff's Deputy from Sacramento County, and for the last few years had been
363 working as a Public Safety Officer and Supervisor at Lake of the Pines. He stated that during that
364 time he had observed that some guests would be called in week after week and were living within
365 Lake of the Pines. He found that some of those guests caused the majority of the problems within
366 Lake of the Pines because they had no tie to the community. He stated as a Public Safety Officer
367 he had no control over them being called in. He added he could cite the residents; however, they
368 could not limit who residents called in as guests. He said that if there was going to be a clubhouse
369 with alcohol served it would create a problem of drinking and driving. He stated it was his opinion
370 that drinking and driving was the biggest problem in Lake of the Pines, as they had two places that
371 served alcohol, who continuously over served. He said when people drink and drive, he had
372 personally seen them crash their cars in the lake, he had been involved in several arrests, and when
373 they left the community they would go to an uncontrolled intersection. He stated they were then
374 faced with a scenario with people who had been drinking and driving who would then need to get
375 onto highway 49 with cars going a minimum of 65 mph in both directions. He also discussed speed
376 limits within Lake of the Pines.

377
378 Chair Duncan thanked him and stated that his concerns about the traffic were noted.

379
380 Chair Duncan closed the Public Hearing at 3:34 p.m.

381
382 Chair Duncan asked if Staff or the Representative had anything to share.

383
384 Mr. Wood stated that they had done an annexation of the roadway that connected Rincon to the
385 wastewater treatment plant, adding that the residences adjacent to Rodeo Flat Road and Timber
386 Ridge would not be in the district and would not be required to connect to any facility, they would
387 not legally be able to connect. He added that is they were able to obtain the easements for
388 Alternative B, if those individuals saw the benefits of fire hydrants and the ability to connect to
389 water, the sewer line would basically be a strip that would be annexed all the way to the sewer
390 treatment plant and would not necessarily give those lots the ability to connect or force them to
391 connect. He also clarified that they were talking about doing a sewer force main, which would be
392 a pressurized line pumping out of the development, not a traditional gravity line that others would

393 connect in to. He also stated that Alternative B would require obtaining Public Utility Easements
394 which would not give road rights that would allow a through connection to Highway 49. He added
395 that they would be leaving the road with a new finished surface when they were done. Regarding
396 phases, he stated that a project of this size cost millions of dollars and required a significant amount
397 of infrastructure, with the first phases being the worst. He explained the logic behind the phasing
398 and clarified that there was no removal of amenities from the original project. He stated that when
399 the reduction of square footage of retail space had been discussed it was because they were better
400 utilizing the space, but not reducing services or amenities. He added that phases could also be
401 modified or combined and explained that it would depend upon the market. He further explained
402 that the roads had been evaluated by the Department of Public Works, they were 10-foot lanes,
403 and were safe roads for the anticipated average daily trips. He said they were not cutting corners
404 and the project had been reviewed by County Staff, the Fire Planner, and was being built by County
405 and State standards, making the surrounding neighborhoods safer. He said that environmental
406 impacts had more to do with the number of units, and nothing to do with mapping, it was an
407 exercise in how the market worked to be able to gain financing, and that one of the advantages to
408 home ownership was that over time property values typically went up. He said this change was a
409 benefit for the residents who would live there and to make the project successful. He said that staff
410 had done a really good job putting in safeguards and that the project was set up for success. He
411 stated that they were trying to set up a wonderful community with a demographic that wanted to
412 live there. He additionally added that they had agreed to significant additional funding for the
413 Higgins Fire Protection District. He asked Bruce Inman or Marsha Burch to address the population
414 cap.

415
416 Marsha Burch, legal counsel for Rincon Del Rio, introduced herself to the Commission. She stated
417 that someone had mentioned there was no way for them to control the population compared to the
418 previous project and that simply wasn't true. She said that the previously approved project did not
419 have a mechanism to control the population, however several mechanisms were now present. She
420 said there were several CC&Rs, which were essentially a deed restriction which would run with
421 the land and could only be modified with approval from the County. She further stated that the
422 homeowner's association or applicant would not be able to modify that on their own. She said
423 there were several CC&Rs which referenced the 2013 settlement agreement and 415 population
424 cap. Regarding evictions, she said it would never come to that, stating that the population even
425 coming close to 415 was very slim. She stated that there was a membership services agreement
426 that each resident would sign upon purchase which stated that they would have no more than 2
427 occupants. She said they would occasionally have visitors, such as family members or friends,
428 however the population limit referred to residents. She said that several comment letters had asked
429 what would happen if there were 420 people in the project because of visitors, which was not what
430 the population cap referred to. She said that the resident population cap would be controlled
431 through the CC&Rs and the membership services agreement. She said that part of owning a
432 property in that community meant entering into an agreement to receive services such as
433 landscaping, housekeeping, and meals which were part of the package of services. She added that
434 they would also have obligations as members of the community, one of them being to agree to the
435 occupancy limit. She stated that there would be 24 units held back which could be held vacant to
436 help monitor the population levels. She also commented that the population levels would not just
437 be checked annually and noted that if the occupancy in a unit changed the owner was required to
438 notify the applicant and developer immediately.

439
440 Mr. Wood added that annual reviews were not a small thing, the development agreement would
441 be reviewed by the Board of Supervisors annually which would be closely scrutinized. He stated

442 that a project like this was not something that would be built overnight, and that over time they
443 would prove that the 1.2 population held true. He also agreed with Marsha that it was unlikely they
444 would exceed the safeguards.

445
446 Chair Duncan asked Planner Kelley for additional comments.

447
448 Planner Kelley stated that the original project had been approved with local Class 1 road standards
449 and the modified project was Class 2 standards with increased pavement thickness and ability to
450 handle additional traffic. He explained this was a revised Condition from the Nevada County
451 Department of Public Works based on a revised traffic study from the applicant. He stated Director
452 Tillotson would be able to speak more to that. Regarding fire impact fees, he stated that the
453 Development Agreement did include a fire impact fee of \$0.23 per square foot based on building
454 area which would be paid to the Higgins Fire District. For emergency access, he stated that County
455 Fire Prevention Planner Scott Eckman was on the line and would be able to answer those questions.
456 He added that the original project did include the Petition for Exceptions to roadway widths,
457 including Rincon Way, which was being carried over from the original project. He stated that the
458 Circulation Plan showed that the applicant would have to maintain fire clearance up to 10-feet on
459 either side of the road prism out to the edge of the 30-foot right-of-way. He deferred to Fire
460 Prevention Planner Eckman regarding fire insurance and emergency evacuation routes.

461
462 Chair Duncan asked if Director Tillotson was available to answer any questions about the road
463 standards.

464
465 Director of Public Works Trisha Tillotson introduced herself to the Commission. She said that a
466 Class 1 and Class 2 roadway was a condition that had been added by the department, explaining
467 that the difference was the depth of aggregate base for supporting emergency response vehicles,
468 specifically fire trucks, as well as the width of shoulders. She stated that it was requiring a wider
469 section for Rincon between Highway 49 and Hidden Ranch Road and they were allowing narrower
470 shoulders between Hidden Ranch Road and the project entrance. She stated she had the
471 specifications available to show the Commission should they desire.

472
473 Chair Duncan clarified that Class 2 was a beefier road than Class 1 and better able to handle the
474 traffic.

475
476 Director Tillotson answered that was correct.

477
478 Planner Kelley stated that Fire Prevention Planner Eckman was on the line and available to speak
479 more about fire clearance requirements and emergency access.

480
481 Chair Duncan clarified that the improvement to the Class 2 road standard was solely the
482 responsibility of the developer, the residents who benefit from this road would not be assessed for
483 it.

484
485 Planner Kelley answered that was correct.

486
487 Fire Prevention Planner Eckman stated that as indicated, defensible space would be applicable to
488 all structures and in compliance with Public Resource Standard 4291 which was described in full
489 to the applicant. He stated that additional clearance could be required upon completion of the
490 buildings, and that all structures would be required to be both alarmed with transmitting fire alarms

491 which would initiate a dispatch as well as have sprinklers. He said all landscape vegetation within
492 the parcel itself would be part of the vegetation management plan which would be adhered to in
493 perpetuity of the project. Regarding fuel road modifications, interior roads within the parcel would
494 have a reduced fuel modification zone up to six feet rather than the required ten feet per Title 14
495 Standards which were subsequently adopted by Ordinance 2474. For roads leading into the project
496 site from Highway 49 to the project site the 50-foot easement would meet all required standards
497 including the 10-foot fuel management along the roadway. He added that the site plan showed a
498 10-foot modification zone in the 30-foot setback area. He stated that the road met the original
499 intent of the road standards to all lane widths and weight standards as set forth by the Department
500 of Public Works.

501
502 Chair Duncan thanked Fire Planner Eckman for his comments.

503
504 Planner Kelley clarified that the original project did have an occupancy limit of 415 people, which
505 had been included in the Conditions of Approval and had been evaluated in the Draft and Final
506 Environmental Impact Reports.

507
508 Chair Duncan clarified that there was no change in the population number, it remained the same
509 as the original project.

510
511 Planner Kelley affirmed that was correct.

512
513 Chair Duncan asked if any experts had any additional information to share. As none were
514 forthcoming she asked the Commission if they wanted to take a break or proceed.

515
516 Commissioner Ingram Spencer answered whatever Chair Duncan wished.

517
518 Chair Duncan continued the hearing. She asked the Commission if they had any additional
519 questions.

520
521 Commissioner Mastrodonato asked either Planner Kelley or Mr. Wood to walk the Commission
522 through the process of obtaining easements in order to make Alternative B happen. He asked if
523 they would be soliciting the neighbors and land owners or if another formal process was used. He
524 further asked what would happen if hypothetically there were 12 parcel owners and 10 agreed to
525 the easement.

526
527 Mr. Wood answered it would be reaching out to the neighbors, however a number of those
528 easements were offered for dedication when the subdivisions were originally created, however
529 they were never accepted by the County. He said the neighbors along the required route would
530 have to agree to give a public utility easement in exchange for fire hydrants and a water line. He
531 also believed it may require an action from their road association. He stated that if there were
532 holdouts it would stop the process, the only way to override that would be if the County were to
533 get involved, who have indicated that they did not want to be the ones to obtain those easements.
534 If the neighbors did not grant those easements, then they would have to go with Alternative A. He
535 added that NID would also be involved in setting up the district.

536
537 Commissioner Mastrodonato said that it sounded like the neighbors would have complete and total
538 control over that process, there would not be a way to annex those properties to obtain those
539 easements.

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Chair Duncan asked for additional questions.

Commissioner Coleman-Hunt asked about the emergency access road, which was not being described as secondary access, and why the standard was being lowered. She clarified that she was referring to the road going out Rodeo Flat. She said she was confused about the purpose of the road and if it would be in compliance with Title 24 that was passed in 2021, which really increased the width and weight of the road. She said it was being diminished to a 20-foot road with 2-foot shoulders, and a maximum grade of 16%. Additionally, she asked why they were being asked to approve the project to not include fuel reduction on the road. She also stated that she was alarmed to hear that route would be an emergency evacuation for Lake of the Pines.

Mr. Wood stated it was an emergency access road that would be their secondary way in and out, which would have an automated gate as agreed to in the Settlement Agreement. He said it would be one of the gates that the Fire Department would be able to approach and open automatically. He said that public usage would only occur if the fire department or public safety decided it was necessary, it was only there in the case of fire or another event. He said it was his understanding that they were building that section of roadway to standard, he believed that in the original approval there was one section on the profile that showed 16.5% and it was added into the exception. He also said that they could essentially build that at 16% max grade, paved, surfaced, with 2 ten-foot lanes. He did not think they were asking for much deviation on the emergency access road section. As far as fuel modification went, there was no lessening of fuel modification, anything in that section would have to meet all State and County requirements for fuel modification on the entirety of the Rincon property. Regarding the six-foot offset, he believed that had to do with the section where the units were closer to the roadway, however the practical effect was that fuel modification would occur everywhere on the Rincon project.

Fire Planner Eckman clarified that the access road to the northeast on Rodeo Flat and connecting to Timber Ridge shows as a 20-foot lane, as required of any roadway. It also included the appropriate shoulders and fuel modification zones, being 10-feet on both sides of the roadway. He did not see the half percent section of roadway causing any issue to individuals traversing the roadway in times when it is required.

Commissioner Coleman-Hunt said that the Petition stated that it would allow for the elimination of vegetation management on either side of the road on either side of Rincon Road. She asked where the Petition is asking for the elimination of vegetation management.

Fire Planner Eckman answered he did read that on a previous letter, however the site plans, being the master blueprint, clearly define the fuel modification zone along Rincon Way drawn as such to be applicable to the full 10-foot depth.

Mr. Wood stated that they had a 30-foot easement on a certain section of Rincon Way. He stated the developer had no issue with doing fuel modification 10-feet on either side beyond the roadway, however they did not own the easement width beyond 30-feet. If they had the ability to enter and keep the fuel back, they would, however they were held by the easement.

Commissioner Coleman-Hunt asked if there would be a projected change with the new Title 24 requirements.

589 Fire Planner Eckman answered that the Title 14 State Fire Regulations was entering into a new
590 revision, which as of the March 22, 2021 Board of Forestry meeting was still very much in draft
591 form. He did not anticipate it becoming law anytime in the near future and suspected there would
592 be a fair amount of changes. Subsequent to that approval, local Ordinances would need to be
593 reviewed by the Board of Supervisors.

594

595 Chair Duncan asked for additional questions.

596

597 Commissioner Ingram Spencer asked about modifications to Condition of Approval A.37, and if
598 it would be part of any motions made today.

599

600 Planner Kelley stated it would. He stated that the motion would be to include the change to all of
601 the entitlements to carry forward to the Board.

602

603 Commissioner Ingram Spencer stated there was no specific number listed on the
604 Recommendations.

605

606 Chair Duncan answered she could say “As modified at the Public Hearing”.

607

608 Planner Kelley answered that was correct, it would be as modified.

609

610 Chair Duncan thanked everyone for their input, especially the follow up from Commissioner
611 Coleman-Hunt regarding the fuel modification. She said sometimes people did argue about fuel
612 clearance on private property and added the County could benefit from more vigorous fuel
613 clearance. She asked if anyone was inclined to make a motion.

614

615 Commissioner Greeno asked about the Rodeo Flat easement and if sewer was available in that area
616 at this time.

617

618 Mr. Wood answered no, the residents of that neighborhood were currently served by septic. The
619 project was annexed and a part of District 1 of the Lake of the Pines Water Treatment Plant. He
620 said that district boundary ran up Timberwood Drive and Rodeo Flat Drive down to the northeast
621 corner of the project limit. They would have a sewer force main that would pump up to the high
622 point of Rodeo Flat Road at which point it would become like a traditional sewer main and rely
623 on gravity to get to the wastewater treatment plant. He said this was unless Alternative B easements
624 were secured, which would be a little flatter.

625

626 Commissioner Greeno asked if it would be installed under the roadway.

627

628 Mr. Wood answered it would be in the shoulder. He added that the waterline was already installed
629 at the northeast corner, and they would construct the force main predominately in the shoulder.

630

631 Commissioner Ingram Spencer asked if they would have to go with Alternative A if the
632 neighborhood residents did not grant easements for Alternative B, and they would not be able to
633 start Phase I until they had put in sewer and water.

634

635 Mr. Wood answered that was correct. He said that quite a few people and agencies saw the value
636 in going with Alternative B, however it would require the neighbors to go forward with it. He
637 added that if they didn’t want to, they didn’t have to.

638
639 Commissioner Ingram Spencer asked if other properties would be affected by Alternative A.
640
641 Mr. Wood stated it would stay within the roadway right of way.
642
643 Commissioner Ingram Spencer wanted to clarify if those individuals would be required to hook up
644 to Alternative A if their septic tank failed.
645
646 Mr. Wood answered that the original approval had been specific in that it did not annex in those
647 lots. He said they were not an island, however the residential lots in those neighborhoods were not
648 included.
649
650 Commissioner Ingram Spencer clarified it would be strictly for the project.
651
652 Mr. Wood answered that was correct.
653
654 Chair Duncan added that in order to include those lots that were not in the district it would require
655 additional governmental review with approval from LAFCo. Chair Duncan asked for a motion.
656
657 Commissioner Ingram Spencer clarified that the actions today were only a recommendation to the
658 Board, there would be additional opportunity to comment and appear before the Board.
659
660 Chair Duncan stated that was correct.
661
662 Commissioner Ingram Spencer asked if the motions needed to be individual or grouped together.
663
664 **Motion by Commissioner Mastrodonato** to recommend that the Board of Supervisors after
665 reviewing and considering the proposed Addendum to the Certified Final Rincon del Rio
666 Environmental Impact Report (EIS19-0010, SCH# 2011052030) (*Attachment 2*), and Mitigation
667 and Monitoring and Reporting Program (*Attachment 1*) adopt a Resolution approving the
668 Addendum to the Certified Final Rincon del Rio Environmental Impact Report (EIS19-0010,
669 SCH# 2011052030) (*Attachment 2*) to the Certified Final Rincon del Rio Environmental Impact
670 Report (EIR10-001, SCH#2011052030) pursuant to Section 15164 of the California
671 Environmental Quality Act Guidelines making Findings A through E: **Second by Commissioner**
672 **Ingram Spencer. Motion carried on a roll call vote 5/0.**
673
674 **Motion by Commissioner Mastrodonato** to recommend that the Board of Supervisors approve
675 the Petition for Exceptions (PFX19-0003) subject to the Mitigation Measures and Conditions of
676 Approval shown in Attachment 1, or as may be modified at the public hearing, pursuant to Nevada
677 County Land Use and Development Code Sections L-IV 2.4 and 2.6 and L-XVII 3.12, and
678 California Government Code Sec. 66474, making Findings A through D: **Second by**
679 **Commissioner Ingram Spencer. Motion carried on a roll call vote 5/0.**
680
681 **Motion by Commissioner Mastrodonato** to recommend that the Board of Supervisors approve
682 the Management Plan (MGT20-0001), subject to Mitigation Measures and Conditions of Approval
683 shown in Attachment 1, or as may be modified at the public hearing, pursuant to Nevada County
684 Land Use and Development Code, Section L-II 4.3.3, making findings A and B: **Second by**
685 **Commissioner Ingram Spencer. Motion carried on a roll call vote 5/0.**
686

687 **Motion by Commissioner Mastrodonato** to recommend that the Board of Supervisors approve
688 the Tentative Final Map (TFM19-0008) to subdivide the project site from the existing four (4) lots
689 into 102 Single- Family Residential Parcels ranging in size from 4,699 square feet to 8,391 square
690 feet. 221 Single Ownership Condominium parcels ranging in size from 1,300 square feet to 1,500
691 square feet. 23 common area parcels ranging in size from 11,807 square feet to 130.42 acres for
692 parking, landscaping, open space, Village Center, Group House/Memory Care and other common
693 facilities subject to the Mitigation Measures and Conditions of Approval shown in Attachment 1,
694 or as may be modified at the public hearing, pursuant to Nevada County Land Use and
695 Development Code Section L-IV 2.4 and California Government Code Section 66474, making the
696 findings A through G: **Second by Commissioner Ingram Spencer. Motion carried on a roll call**
697 **vote 5/0.**

698
699 **Motion by Commissioner Mastrodonato** to recommend that the Board of Supervisors approve
700 Use Permit (CUP19- 0010) to establish a Comprehensive Master Plan for the project site subject
701 to the Mitigation Measures and Conditions of Approval shown in Attachment 1, as modified at the
702 public hearing, pursuant to Nevada County Land Use and Development Code Section L-II 5.6.G
703 and 5.5.2.C, making findings A through L: **Second by Commissioner Ingram Spencer. Motion**
704 **carried on a roll call vote 5/0.**

705
706 **Motion by Commissioner Mastrodonato** to recommend that the Board of Supervisors adopt an
707 Ordinance approving the Second Amendment to the Development Agreement (MIS20-0001),
708 pursuant to Nevada County Land Use and Development Code Section L-II 5.18.E, making findings
709 A through E: **Second by Commissioner Ingram Spencer. Motion carried on a roll call vote**
710 **5/0.**

711
712 Chair Duncan thanked everyone for their participation. She noted that anyone on the interested
713 parties list would be notified.

714
715 The meeting was interrupted when internet connectivity was temporarily lost...

716
717
718 **1:45 p.m. NEVADA COUNTY 2020 HOUSING ELEMENT ANNUAL PROGRESS REPORT.** The
719 Nevada County Planning Commission will hold a public hearing to accept the 2020 Housing Element
720 Annual Progress Report pursuant to State of California Government Code Section 65400. State of
721 California housing law requires cities and counties to submit a prescribed Housing Element Annual
722 Progress Report by April 1 of each year. The 2020 Annual Progress Report contains a numeric and narrative
723 review of the County's achievements in implantation of Housing Element programs during calendar year
724 2020. **PROJECT LOCATION:** Unincorporated area of Nevada County. **RECOMMENDED**
725 **ENVIRONMENTAL DETERMINATION:** Exempt pursuant to Section 15378(b)(5) of the State CEQA
726 Guidelines. **RECOMMENDED PROJECT ACTION:** Accept the 2020 Housing Element Annual
727 Progress Report. **PLANNER:** Matt Kelley, Senior Planner

728
729 **Motion by Commissioner Coleman-Hunt** to recommend that the Board of Supervisors adopt the
730 attached Ordinance (ORD20-4) amending Chapter II of the Nevada County Land Use and
731 Development Code Sections L-II 3.3 and Section L-II 6.1 **Second by Commissioner Duncan.**
732 **Motion carried on a roll call vote 4/0.**

733
734
735
736 Discussion ensued regarding upcoming Commission meetings and ongoing project statuses.

737
738 **Motion by Commissioner Duncan; second by Commissioner Coleman-Hunt to adjourn.**
739 **Motion carried on voice vote 4/0.**

740
741 There being no further business to come before the Commission, the meeting was adjourned at
742 5:14 p.m. to the next meeting scheduled for April 8, 2021, in the Board of Supervisors Chambers,
743 950 Maidu Avenue, Nevada City.

744 _____

745
746 Passed and accepted this day of , 2021.

747
748 _____
749 Brian Foss, Ex-Officio Secretary

DRAFT