



**CITY OF GRASS VALLEY**  
**Community Development Department**  
Thomas Last, Community Development Director

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Grass Valley, CA 95945

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**A CENTENNIAL CITY**

August 15, 2017

Tom Brinkhouse  
Division of Housing Policy Development  
California Department of Housing and Community Development  
2020 W. El Camino, Suite 500  
Sacramento, CA 95833

RE: Nevada County 2014-2019 Housing Element

Dear Mr. Brinkhouse,

This is a follow up letter to our conversation several weeks ago on the status of Nevada County's Housing Element. It is the City's understanding that HCD has certified the County's 2014-2019 Housing Element as complying with statute. HCD did so even though the County did not fully implement programs to rezone land as required in its last two previous Housing Elements. These rezone programs were required for the County to achieve its fair share of our region's need for land zoned for low- and lower-income housing. The City has been working with the County in its current Housing Element implementation to ensure it has adequately zoned land with infrastructure to accommodate all of its housing allocation needs. The County is seeking to rezone land within the City's Sphere of Influence (SOI) since the City generally has the infrastructure needed to serve high density residential development — specifically a sewer system which can support wastewater service to high-density developments. While there are smaller sewer systems in the Lake of Pines area of South Nevada County and in unincorporated Penn Valley / Lake Wildwood at the west end of the County, most of the unincorporated area (where the bulk of our community's population lives) does not have public sewer systems.

Accordingly, any high density housing in the City's Sphere of Influence must annex to the City upon development. We are concerned that the County's approach to rezoning land in Grass Valley's Sphere fails to properly consider other land uses, available infrastructure, and adequacy of other critical public services. In particular, the City has limited sewer main capacity to transmit wastewater from the Brunswick Basin, where the County would place most all affordable units near Grass Valley, to its wastewater plant. The County's environmental review for the housing element does not consider the feasibility or the impacts of expanding that transmission capacity. More importantly, from the City's perspective, the County has dismissed feasible alternatives which would distribute dense housing around the periphery of the City to reduce infrastructure impacts and to avoid placing even more affordable housing developments in the Brunswick Basin which, due to

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NEVADA COUNTY  
BOARD OF SUPERVISORS

cc: All BOS  
Co Counsel  
CPA  
Planning  
CEO

County land use decisions prior to annexation of this area to the City, already hosts the great majority of affordable housing in our community.

Thus, the County's current proposals — even if the County implements them— will not provide adequately zoned land to satisfy the County's obligation to provide adequate sites for its fair share of our community's housing need. The City zones land on the basis of studies demonstrating required infrastructure can be provided. Hence the City's concern with the County's direction to concentrate most of its housing obligations in an area with inadequate services and infrastructure.

We provide this information to assist HCD's continuing oversight of the County's implementation of its current housing element and the development of its element for the next planning period. We request your office notify my office of further opportunities to provide comment and input on the County's efforts to implement and update its housing element.

Your office can encourage the County work with us to achieve our shared goal of a well-planned community with adequate sites to meet the significant demands for housing evident in our local economy. We will continue to do so, too.

If you have any questions, please call me at (530) 274-4711.

Sincerely,



Thomas Last  
Community Development Director

cc: Tim Kiser, Interim City Manager  
Michael Colantuono, City Attorney  
Grass Valley Council Members  
Hank Weston, Chair, Board of Supervisors  
Rick Haffey, County Executive Officer .



COUNTY OF NEVADA  
COMMUNITY DEVELOPMENT AGENCY  
PLANNING DEPARTMENT

950 MAIDU AVENUE, SUITE 170 NEVADA CITY, CA 95959-8617  
(530) 265-1222 FAX (530) 265-9851 <http://new.nevadacounty.com>

Sean Powers  
Community Development Agency Director

Brian Foss  
Planning Director

September 22, 2017

Tom Brinkhuis  
Division of Housing Policy Development  
CA Dept. of Housing and Community Development  
2020 W. El Camino, Suite 500  
Sacramento, CA 95833

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SEP 25 2017

NEVADA COUNTY  
BOARD OF SUPERVISORS

RE: Letter from the City of Grass Valley Regarding the Nevada County Housing Element

Dear Mr. Brinkhuis:

The County of Nevada is in receipt of the August 15, 2017 letter from Tom Last, Community Development Director for the City of Grass Valley to HCD regarding the implementation of the County's Housing Element Rezone programs. Thank you for taking the time to discuss this letter with us on August 31<sup>st</sup> and again on September 8<sup>th</sup>, 2017. The County of Nevada would like to provide clarification of the issues raised by the City in their objections to the rezoning of two properties that are located within the City's Sphere of Influence and identified as Sites #3 and #5 in the County's Environmental Impact Report (EIR).

#### Identification and Analysis of Sites to be Rezoned

First and foremost, the County would like to highlight that a rigorous site analysis and EIR process was completed to determine the most feasible sites to be developed as by-right high density housing pursuant to Government Code 65583.2(h). When selecting potential rezone candidate sites, the County created a specific set of criteria for a property to be considered. The most critical and primary determiner for a site to be considered as a rezone candidate site was related to the fact that for a site to be developed with high density residential use it must have access to public sewer, water and roads and therefore should be within a designation Community Region or Village Center. The rezone candidate sites were required to meet the majority of the following factors to be added to the list: 1) the site is currently undeveloped; 2) the site has ingress and egress on a County maintained road or is in close proximity to a County maintained road; 3) the site is located in close proximity to a Community Region or Village Center that has access to services and jobs; 4) the site is on or in close proximity to a public transit route; 5) the site is within or in close proximity to an existing sanitation district; 6) the site is within an existing or in close proximity to a public water district; 7) the site has areas that are relatively flat that could accommodate higher density development; 8) the site is relatively clear of environmental constraints, such as wetlands, watercourses, excessive slopes, etc.; 9) the site is currently zoned for some level of high density residential development.

In addition to adhering to the rezone candidate site criteria, the County also followed a logical zoning progression when considering the existing zoning of potential rezone candidate sites. The most logical candidate sites for an increase in density on was sites that were zoned for Urban Medium Density

(UMD/R2) uses, which would be the smallest increase in density. Next was Urban Single Family (USF/R1), which was a larger jump in density but still in areas that are typically near more built up areas with existing infrastructure. Next were Planned Development (PD)/Interim Development Reserve (IDR) properties that already had an allocation of either R3 or at least R2 zoning assigned to the PD/IDR. The next designations that were considered were both Business Park (BP) and Office Professional (OP) because staff recognized that the County had a good amount of BP and OP properties that could meet the rezone candidate site criteria and particularly related to the fact that these properties were located primarily in areas that had public roads, sewer and water. The final existing zoning designation that was considered for the candidate rezone sites was Commercial. Typically, sites that are zoned commercial are located in areas that most easily meet the rezone candidate site criteria. The County viewed these properties as not appropriate for conversion to Urban High Density, but as sites that could be built out as a mixed-use development that still retained the underlying commercial designation with an increase in the allowed residential units from four units per acre to the state required 16-units minimum per acre.

Rural designations such as General Agriculture (AG), Agriculture Exclusive (AE), Forest (FR), Recreation (REC) or Timber Production Zone (TPZ) were not chosen as potential candidate rezone sites because in most cases properties with these designations are in areas that do not have public sewer and other necessary infrastructure needed to support high density residential housing and subsequently could not meet the candidate rezone site criteria. Staff also did not include the potential rezoning of Industrial designated properties primarily because a lack of suitable industrial designated properties for industrial use had been identified by the local development community and because typically industrial uses are the least compatible with residential uses.

After extensive analysis of the appropriate sites to study for rezoning an EIR was prepared. The EIR thoroughly analyzed existing infrastructure and identified mitigation measures that ensure that adequate infrastructure will be in place to serve the higher density development for all of the sites recommended to be rezoned. As outlined in the City's letter, the County lacks adequate infrastructure, primarily public sewer, in the rural areas of the County. Therefore, the County's General Plan directs denser development into locations where infrastructure is available, such as the cities' Spheres of Influence. When identifying potential rezone sites, the County was limited in its ability to place these high density sites to primarily the Penn Valley and Lake of the Pines areas as well as the City's Sphere of Influence since these areas of the County contain the most complete infrastructure and services.

Within its letter, the City expresses concern that the County's approach to rezoning land in the City's sphere fails to properly consider other land uses, available infrastructure and adequacy of other public services, primarily the City's limited sewer main capacity to transmit water from the Brunswick Basin where proposed rezone Sites 3, 5 and 6 are located. The County disagrees with this assessment. Each potential rezone site was analyzed individually for environmental constraints, available infrastructure, proximity to services and adequacy to accommodate a minimum of 16 units per acre. Mitigation measures were developed that ensure that environmental resources will be avoided, infrastructure (sewer, sewer transmission lines, water lines, roads, intersections, drainage facilities, etc.) will be in place to serve the development and that the sites can adequately accommodate the density. The complete EIR, staff reports and all of the analysis can be found at the following link: <https://www.mynevadacounty.com/676/Housing-Element-Rezone-Program-Implement>.

Further, Sites #3 & #5 have been targeted for rezoning and included within County Housing Element Programs as potential high density housing for over 15 years (3 housing cycles). These sites were first identified in the County's 3<sup>rd</sup> Cycle (2003-2009) update and carried over from the 4th Cycle (2009-2014) and 5th Cycle (2014-2019) Housing Element updates as potential high density rezone sites for

several reasons including but not limited to their prior Housing Element designation as potential suitable high density zoning sites, their Urban Medium Density Residential zoning designation (which the City allows up to 8 units per acre), the lack of environmental constraints (steep slopes, water courses, wetlands, landmark oak trees, etc.), as well as their proximity to services including public sewer, adequate roads, shopping, jobs, and health and human services.

The City's letter fails to mention that the City has approved a Specific Plan (Loma Rica Ranch) for 700 low, medium and high density primary residential units; 54,000 square feet of commercial, mixed-use, and retail uses; and 361,161 square feet of business and light industrial uses with approximately 313.9-acres proposed as open space, including improved parks, farm land and natural open space on adjacent property to Sites 3 and 5 that is farther removed from the City along Brunswick Road than Sites 3 and 5. The City's 2-12 annexation of the Loma Rica Ranch has left these two properties sandwiched between two areas of the City (see attached map). A development of the magnitude of the Loma Rica Ranch far exceeds the service and infrastructure needs of the potential rezoned Sites 3 and 5. Further, the development of Sites 3 and 5 could be mutually beneficial to the development of the Loma Rica Ranch property, which also lacks adequate sewer transmission lines and will further tax the City's limited services. The County's EIR mitigation requires that the developer of Sites 3 and 5 (and 6 for that matter) ensure that adequate sewer capacity (from a wastewater treatment plant and transmission line standpoint) are available before developing. The relatively standard mitigation requires that the developer either improve the infrastructure, or if another project develops the infrastructure (such as the Loma Rica Ranch development) the high density project would pay their fair share towards the improvement costs through a reimbursement agreement. Similar mitigation is provided for other critical City (or County) services such as police, fire and roads.

### **Alternative Sites Considered**

On October, 27, 2015, after the completion of the public comment periods for the EIR and after public hearings at the Planning Commission, the Nevada County Board of Supervisors adopted a General Plan Amendment Resolution (Resolution No. 15-504) and Zoning Map Amendment Ordinance (Ordinance No. 2401) which established high density residential zoning (R3) with a minimum density of 16-units for six properties in the unincorporated area of Nevada County totaling 532-potential high density units. The sites that were rezoned included two sites in the Penn Valley area, three sites in the Lake of the Pines area and one site in the Grass Valley Sphere of Influence (Site 6) that already had a General Plan Land Use designation of Urban High Density, but had a Medium Density Residential (R2) zoning designation. The County's unmet need was 699-units as required by the County's certified 2014-2019 Housing Element Update Program 8.1.1, leaving a shortfall of 167-units. Two other sites in the Grass Valley Sphere of Influence (Sites 3 and 5) were recommended to be rezoned since they were determined to be the most suitable through the environmental review process, which would have provided an additional 189-unit of high density zoning at a minimum of 16-units per acre. The Board of Supervisor's postponed the rezoning of these two properties at the request of the Grass Valley City Council who attended the project Planning Commission and Board meetings and was the only opposition to the rezoning of Sites 3 and 5. The property owners of Sites 3 and 5 were very supportive of the rezoning effort and were extremely disappointed by the delay.

The Board of Supervisors at the City's request, directed staff to work with the City to consider rezoning two alternative properties located on East Bennett Road within the City's Sphere to accommodate the remaining unmet rezone need (167 units minimum). These sites were identified as potential alternative sites in the Housing Element EIR, but did not include the complete level of analysis to complete the rezoning of the properties. The County procured the services of a traffic, biological and cultural consultants to analyze the project sites. In addition, outreach was performed to surrounding property

owners and agencies regarding the sites' potential. Both the biological and cultural surveys resulted in negligible potential impacts from the development of the properties for high density housing. The traffic study however, determined that project would negatively impact 5-failing intersections within the City limits which would necessitate expensive mitigation to reduce the impact to less than significant levels including the installation of traffic signals.

In addition, comments were received from the State Department of Toxic Substances and Control (DTSC), State Parks and the California Native Plant Society-Redbud Chapter and the Wolf Creek Alliance and Iron Horse Homeowners association expressing concerns over the potential development of these properties on East Bennet Road for high density housing. The most concerning comments came from DTSC which outlined that the properties in question were a part of a larger land holding that had entered into but never completed a Voluntary Cleanup Agreement with their agency. Further, the City was in the process of preparing a Phase I Environmental Site Assessment for these properties that concluded that: "Based on these limited findings, a majority of the Site may be suitable for commercial/industrial use but may not be suitable for residential use (*Geocon Project No. S9947-03-02C, October 29, 2015*)." This conclusion was supported by correspondence from DTSC, which stated "...the contamination should be addressed prior to issuance of any site specific development documents... (*Dick Jones, DTSC Via Email dated December 03, 2015*)." Since this rezoning effort resulted in establishing by-right development of high density housing, the County interpreted that the rezoning would also be providing development entitlements and therefore the cleanup would be a part of mitigation for any future development proposal.

None of the other sites considered for rezoning had known or identified legacy mining issues. As a result of the studies performed and the potential for the development to result in new environmental impacts that were not otherwise discussed, analyzed or mitigated for in the certified Housing Element Rezone Program Implementation EIR, the County determined that a Supplemental EIR would be required pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15162(3)(A). The East Bennet Road sites would require additional mitigation in the form of improving 5 intersections within the City and would involve significant contamination clean-up. The County determined that the exposure of residential uses to a contaminated site was not the best approach to providing adequate high density zoning and housing opportunities when other sites were available with less constraints.

### **Current Status**

At this time, the City's objections have impeded the County in completing its State mandated rezone obligation to meet its most current Regional Housing Need Allocation. The sites identified and considered result in the least environmental impacts and the least amount of "up zoning" from other lands in the City's Sphere, as they are currently designated as Urban Medium Density Residential by both the City and County's General Plan that currently allow up to 8 units per acre and are surrounded by other residentially zoned lands. The properties along East Bennett Road that have been considered at the request of the City have environmental constraints and are currently designated as Business Park and are adjacent to some residential zoning but are primarily surrounded by higher intensity Commercial, and Light Industrial zoned lands, which in addition to the concerns outlined above have the potential to result in land use incompatibility issues.

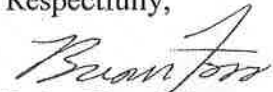
The County has worked diligently towards completing the rezone requirements to meet its latest Regional Housing Need Allocation, which includes preparing an Environmental Impact Report and significant staff time/resources. To date the County has rezoned approximately 76% of its unmet need from the 5<sup>th</sup> Housing Element Update Cycle. We have worked with the City to analyze other potential

sites within their Sphere, which the County has determined to be unsuitable at this time for several reasons outlined in this letter. We appreciate what the City has done to provide opportunities for affordable housing within its limits, but respectfully disagree that the County has not acted in good faith to meet our rezone requirements and further disagree that the project did not adequately analyze the impacts of rezoning these properties based on the availability of infrastructure and services.

Your office can assist in encouraging the County to complete our rezone program that the County has identified. The site selection process identified the most suitable sites for rezoning based on thorough analysis and the EIR identified adequate mitigation to ensure high density residential development would be feasible. The County has shown a good faith effort to provide more opportunities for high density housing in the County and have worked with the City to address their concerns regarding analyzing other areas in the Sphere. Upon further analysis those alternative properties have been determined to be less desirable than the original Sites 3 and 5. Much like the City, the County also has a shared goal of a well-planned community with adequate sites to meet the significant demand a lack of affordable housing in our community. These sites have been targeted for some time since they are near adequate infrastructure and are in close proximity to services needed. The County appreciates your department's willingness to work with us in the implementation of this project and look forward to continued fruitful discussions with HCD and the City on how we all can make positive strides towards addressing the statewide housing crisis.

If you have any questions, please call me at (530) 265-1256.

Respectfully,



**Brian Foss, Director of Planning**  
**Nevada County Planning Department**

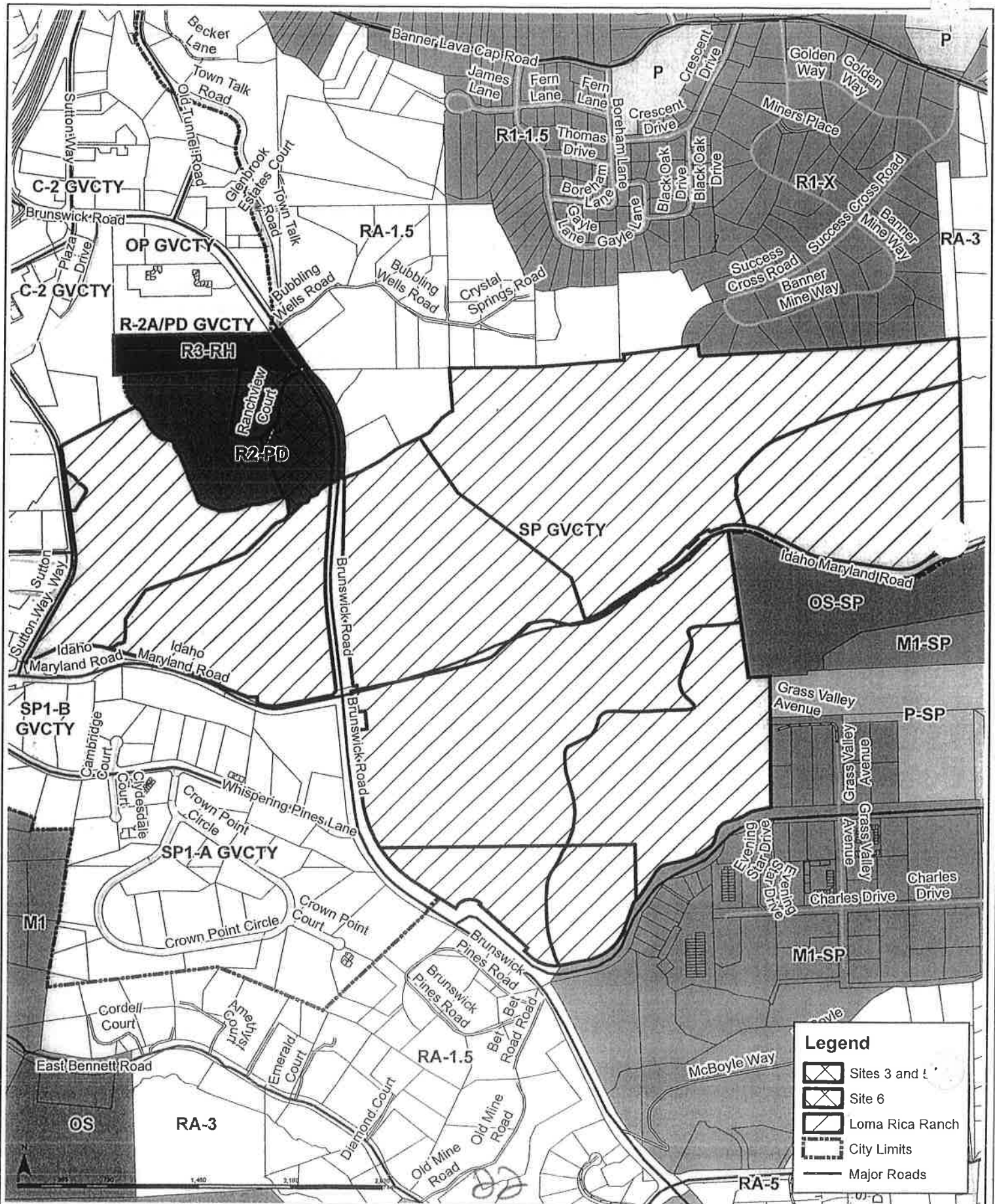
Encl: Site Map

Cc: Nevada County Board of Supervisors  
Rick Haffey, CEO  
Alison Barratt-Green, County Counsel  
Sean Powers, CDA Director  
Tim Kiser, City Manager  
Howard Levine, Mayor








# Housing Element Rezone Project

## Sites 3 and 5



**Legend**

-  Sites 3 and 5
-  Site 6
-  Loma Rica Ranch
-  City Limits
-  Major Roads

