

## PLANNING COMMISSION STAFF REPORT

**APPLICANT:** Michael Gabelman

**HEARING DATE:** April 24, 2025

**OWNER:** Michael Gabelman

**FILE NOs:** PLN24-0060; GPA24-0002; RZN24-0002; TPM24-0003; MGT24-0019; MGT24-0020; PFX24-0009; EIS24-0006

**PROJECT:** The project is an application for a General Plan Amendment (GPA) and Zoning District Map Amendment (Rezone), Tentative Parcel Map (TPM), Management Plans for both Oak Resources and Watercourses (MGT), and Petition for Exceptions to Driveway Standards (PFX).

The General Plan Amendment (GPA24-0002) proposes to change the land use designation for the project parcel from Rural with a minimum parcel size of 20.00 acres (RUR-20) to Rural with a minimum parcel size of 10.00 acres (RUR-10) and includes a corresponding Rezone (RZN24-0002) to amend Zoning District Map No. 37 from General Agriculture with a minimum parcel size of 20.00 acres (AG-20) to General Agriculture with a minimum parcel size of 10.00 acres (AG-10).

Pending approval of the proposed GPA and Rezone, the Tentative Parcel Map (TPM24-0003) proposes to subdivide the approximately 21.41-acre parcel into two parcels of approximately 11.36-acres (Proposed Parcel 1) and 10.05-acres (Proposed Parcel 2) at 12100 Scenic Drive (APN: 060-150-063).

The proposed Watercourse Management Plan has been developed for the proposed project seeking approval to develop within the 50-foot non-disturbance buffer to the centerline of the drainages being crossed by the access road within the project area on the subject parcel, and the proposed Oak Resource Management Plan has been developed for the proposed total area of landmark grove canopy to be potentially removed by the upgrades to the proposed and existing access roads.

Additionally, the project proposes a Petition for Exceptions to Driveway Standards for driveway slopes exceeding 16% due to the topography of the project site being steep in nature with slopes ranging from up to 50%.

**LOCATION:** The project is located at 12100 Scenic Drive, Nevada City, CA 95959, approximately 1.8 miles southeast of downtown North San Juan and 6.8 miles northwest of downtown Nevada City in unincorporated western Nevada County.

**ASSESSOR PARCEL NUMBER:** 060-150-063

**PROJECT PLANNER:** Zachary Ruybal, Associate Planner

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<b>Existing General Plan:</b> RUR-20	<b>Water:</b> Well
<b>GP Region/Center:</b> Rural	<b>Sewage:</b> Septic
<b>Existing Zoning:</b> AG-20	<b>Fire:</b> North San Juan Fire Protection District
<b>FEMA Flood Map:</b> 0375 <b>Zone:</b> X	<b>Schools:</b> Twin Ridges SD
<b>ZDM #:</b> 37	<b>Recreation:</b> Oak Tree Community Park
<b>Lot Size:</b> 21.41 acres	<b>Farmland Designation:</b> Grazing Land
<b>Date Filed:</b> 4/8/2024	<b>Supervisory District:</b> Sue Hoek, District IV
<b>Proposed Zoning District:</b> AG-10 (General Agricultural with a 10.00-acre minimum parcel size)	

**Proposed General Plan Designation:** RUR-10 (Rural with a 10.00-acre minimum parcel size)

**Prev. File:** SE14-001; PLN19-0019; ADP19-0054; MGT19-0029; PLN20-0137; MGT20-0041; PLN23-0084; PRE23-0003

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**ATTACHMENTS:**

1. Draft Resolution: Initial Study/Mitigated Negative Declaration and Draft Initial Study/Mitigated Negative Declaration
2. Draft Resolution: General Plan Amendment
3. Draft Ordinance: Zoning Map Amendment (Rezone)
4. Draft Resolution: Tentative Parcel Map, Watercourse Management Plan, Oak Resources Management Plan, and Petition for Exceptions to Fire Safe Driveway Standards
5. Project Vicinity, Zoning, and Public Notice Map
6. Tentative Parcel Map and General Plan Amendment/Zoning District Amendment Exhibit
7. Parcel Map Recorded in Book 12 of Parcel Maps at Page 32 (PM76-132)

**RECOMMENDATION:**

- I. Environmental Action: Adoption of the project Mitigated Negative Declaration (EIS24-0006).
- II. Project Action: Denial of the proposed General Plan Amendment (GPA24-0002) to the Board of Supervisors.
- III. Project Action: Denial of the proposed Rezone (RZN24-0002) to the Board of Supervisors.
- IV. Project Action: Denial of the proposed Tentative Parcel Map (TPM24-0003) to the Board of Supervisors.

- V. Project Action: Denial of the proposed Watercourse Management Plan (MGT24-0019) to the Board of Supervisors.
- VI. Project Action: Denial of the proposed Oak Resources Management Plan (MGT24-0020) to the Board of Supervisors.
- VII. Project Action: Denial of the proposed Petition for Exceptions to Driveway Standards (PFX24-0009) to the Board of Supervisors.

**BACKGROUND:**

The project parcel was initially created through the approval of a Parcel Map (PM76-132) that was recorded on November 15, 1977, in Book 12 of Parcel Maps at Page 32, and remains in the same configuration (Parcel 2). A residence was constructed in 1986, and various building permits for improvements such as a detached garage, a solar array, and mechanical work have been issued between 2006 and 2014. In 2014, a setback easement was approved (SE14-001) to allow for expansion of an existing garage in the southeastern portion of the parcel, encumbering the parcel to the east (APN: 060-150-064).

On August 26, 2020, the Nevada County Planning Department approved an application for a Commercial Cannabis Administrative Development Permit (ADP19-0054) and an Oak Resources Management Plan (MGT19-0029) for a commercial cannabis operation for medical cannabis at the project site for the previous property owner, Clay Magnuson. In addition to the Commercial Cannabis Administrative Development Permit and Oak Resources Management Plan, on July 22, 2020, the Nevada County Planning Department approved a Steep Slopes Management Plan (MGT20-00-41) for the proposed grading of an access road and commercial cannabis cultivation area within 30% slopes associated with the commercial cannabis operation. On July 26, 2023, the current property owner and project applicant, Michael Gabelman, requested to withdraw the previously approved Cannabis Administrative Development Permit in order to move forward with the current project application for a General Plan Amendment (GPA24-0002), Rezone (RZN24-0002), and Tentative Parcel Map (TPM24-0003).

On June 14, 2023, an application for a Pre-Application Review (PRE23-0003) for a General Plan Amendment, Rezone, and Tentative Parcel Map was submitted to the Nevada County Planning Department and the Pre-Application Review Letter from the Planning Department was completed on July 13, 2023, which provided information regarding the potential feasibility of the future potential project. Within the Pre-Application Review Letter, the Planning Department indicated that there are concerns that a General Plan Amendment, Rezone, and Tentative Parcel Map may not be compatible with the surrounding zoning, and that the Planning Department would be unlikely to support a General Plan Amendment, Rezone, and Tentative Parcel Map without compelling evidence to support the findings required to be made for approval. As a part of the official project submittal, there was no new compelling evidence provided that differed from the Pre-Application Review submittal that further demonstrated

that the proposed project would be consistent with the findings required for approval. Figure 3 on page 10 shows the current Recorded Parcel Map (PM76-132) for the proposed project parcel (Parcel 2).

### **PROJECT DESCRIPTION:**

The project is an application for a General Plan Amendment (GPA) and Zoning District Map Amendment (Rezone), Tentative Parcel Map (TPM), Management Plans for both Oak Resources and Watercourses (MGT), and Petition for Exceptions to Driveway Standards (PFX). The General Plan Amendment (GPA24-0002) proposes to change the land use designation for the project parcel from Rural with a minimum parcel size of 20.00 acres (RUR-20) to Rural with a minimum parcel size of 10.00 acres (RUR-10) and includes a corresponding Rezone (RZN24-0002) to amend Zoning District Map No. 37 from General Agriculture with a minimum parcel size of 20.00 acres (AG-20) to General Agriculture with a minimum parcel size of 10.00 acres (AG-10). Pending approval of the proposed GPA and Rezone, the Tentative Parcel Map (TPM24-0003) proposes to subdivide the approximately 21.41-acre parcel into two parcels of approximately 11.36-acres (Proposed Parcel 1) and 10.05-acres (Proposed Parcel 2). Proposed Parcel 1 is partially developed with an existing well and an OSSE was recently completed by Dundas Geomatics, Inc. In order to achieve the clustering requirements pursuant to rural regions, proposed Parcel 1 includes two proposed building envelopes in the northern portion of the proposed parcel, one for a primary residence and one for either an accessory dwelling unit (ADU) or other accessory structures. Proposed Parcel 2 is currently developed with an existing residence, existing well, and existing PG&E connection, and an OSSE was completed by Dundas Geomatics, Inc. for this parcel as well. The existing driveway will be widened in the applicable areas to meet Nevada County private driveway construction standards.

The proposed improvements to the existing driveway passes through multiple existing ephemeral drainage channels and landmark oak grove and therefore require the approval of a Watercourse Management Plan (MGT24-0019) and Oak Resources Management Plan (MGT24-0020). The proposed Watercourse Management Plan has been developed for the proposed project seeking approval to develop within the 50-foot non-disturbance buffer to the centerline of the drainages being crossed by the access road within the project area on the subject parcel, and the proposed Oak Resource Management Plan has been developed for the proposed total area of landmark grove canopy to be potentially removed by the upgrades to the proposed and existing access roads. A maximum of 0.3 acres of native oak and other hardwood trees pertaining to those mapped landmark groves will be removed as part of the proposed project.

Additionally, the project proposes a Petition for Exceptions to Driveway Standards for driveway slopes exceeding 16% due to the topography of the project site being steep in nature with slopes ranging up to 50%. Scenic Drive is a private road with an existing 60' right-of-way connecting to Tyler Foote Crossing Road, and each parcel is located less than the 2,640 feet dead end road length. The proposed driveway improvements are required to be consistent with

April 24, 2025

Nevada County private driveway construction standards, and the proposed grading will cut into areas that currently have a grade in excess of 16%. While the proposed design and driveway layout for the project avoids areas with more than 30% slope wherever possible, the proposed driveway will need to increase to a maximum 20% slope in order to minimize site disturbance, large cut/fill areas, and impact to oak trees.

A Steep Slopes Management Plan (MGT20-0041) was previously approved in July of 2020 for the grading of an access road constructed on slopes exceeding 30% slope. The Planning Department recognizes this Steep Slopes Management Plan, and the mitigation measures associated with the approved Steep Slopes Management Plan, which will be carried forward as a part of this proposed project to protect and reduce the potential risk of erosive impacts as a part of the project. Figure 1.1 on page 6 and 1.2 on page 7 below shows the proposed Tentative Parcel Map and a close up proposed Tentative Parcel Map submitted for the proposed project, and Figure 3 on page 10 shows the Recorded Parcel Map (PM76-132) for the proposed project parcel (Parcel 2).

LEGEND

	PROPERTY LINE
	BUILDING SETBACK LINE (B.S.L.)
	ADJACENT PROPERTY LINE
	EXISTING FENCE
	EXISTING OVERHEAD UTILITIES
	EXISTING WELL
	EXISTING RIGHT OF WAY
	PROPOSED 30' ACCESS EASEMENT
	EXISTING DRIVEWAY
	PROPOSED LOT LINES
	PROPOSED DRIVEWAY
	30%+ SLOPES
	PERCOLATION TEST
	WASTELAND PIT
	PROPOSED BUILDING ENVELOPE
	MINIMUM USABLE DISPOSAL AREA (M.U.S.D.A.)
	PROTECTED OAK RESOURCE PER RD REPORT
	TEMPORAL DRAINAGE MANAGEMENT AREA
	TEMPORAL DRAINAGE

PROJECT INFORMATION

PROPERTY ADDRESS

12100 SCENIC DRIVE  
NEVADA CITY, CA 95959

OWNER/APPLICANT

MIKE GABELMAN  
829 WILDOOSE AVENUE  
MONROVIA, CA 91016  
(923)863-3719

PLANNING/ENGINEERING

MILLENNIUM PLANNING & ENGINEERING  
471 SUTTON WAY, SUITE 210  
GRASS VALLEY, CA 95945  
530-446-6785  
CONTACT PERSON: ROB WOOD, ACP

SURVEYING

DUNDAS GEOMATICS, INC.  
158 SOUTH AUBURN ST.  
GRASS VALLEY, CA 95945  
(530)274-1616  
CONTACT: ROBERT LAMLESS, P.E., P.L.S. #038820

SECTION, TOWNSHIP AND RANGE

N. 1/2 OF S. E. 1/4 SECTION 9, T.17 N., R. 8 E., M.D.M.

ASSESSOR'S PARCEL NUMBER

080-150-063

ZONING

AG-20 (EXISTING)  
AG-10 (PROPOSED)

GENERAL PLAN

RUR-20 (EXISTING)  
RUR-10 (PROPOSED)

LOT AREA

21.41 ACRES

WATER AND ELECTRICAL

WELL / PUMP

SEWAGE DISPOSAL

SEPTIC

FIRE PROTECTION

NORTH SAN JUAN FIRE PROTECTION DISTRICT

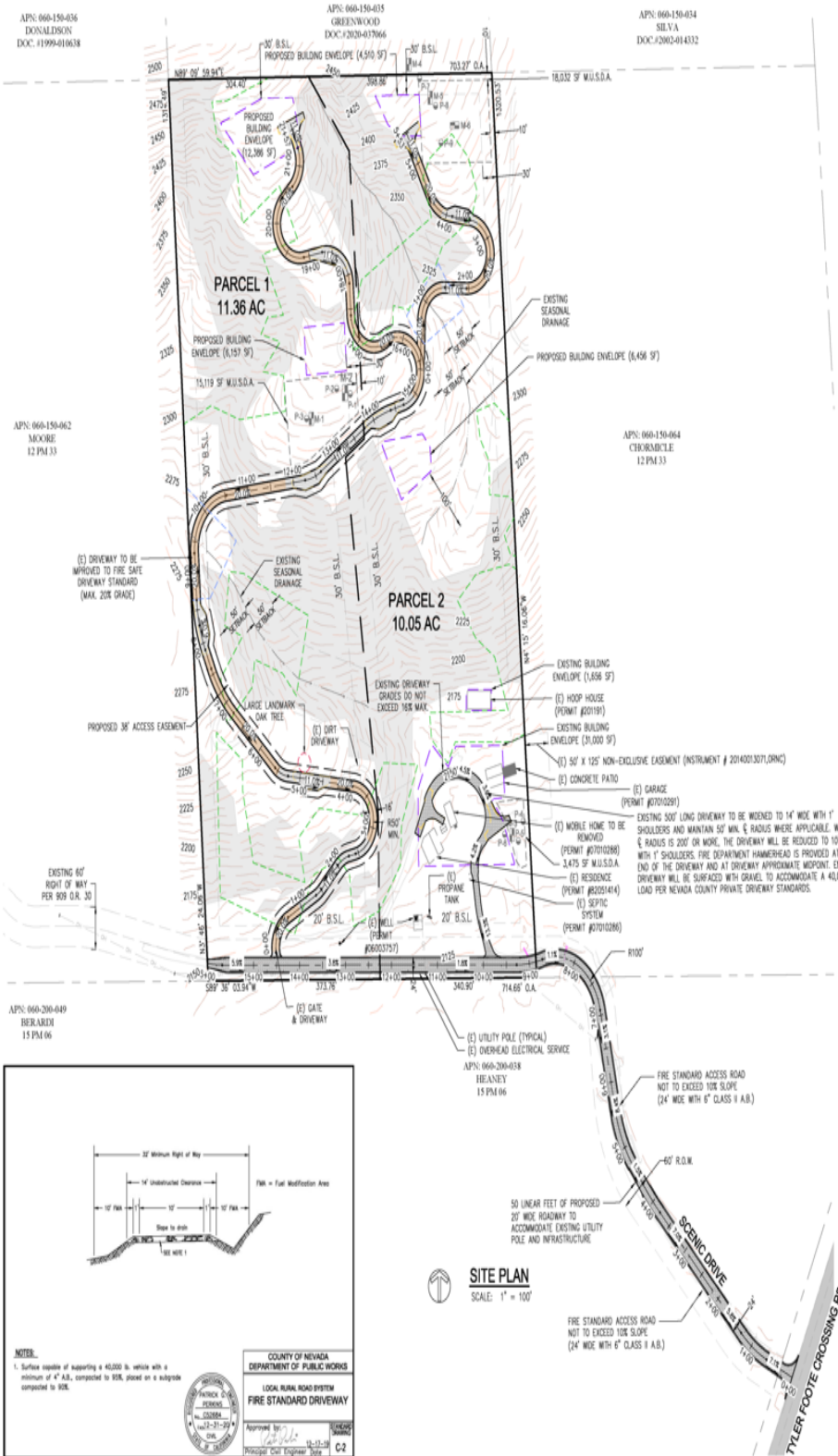


Figure 1.1 – Proposed Tentative Parcel Map (Attachment 9)



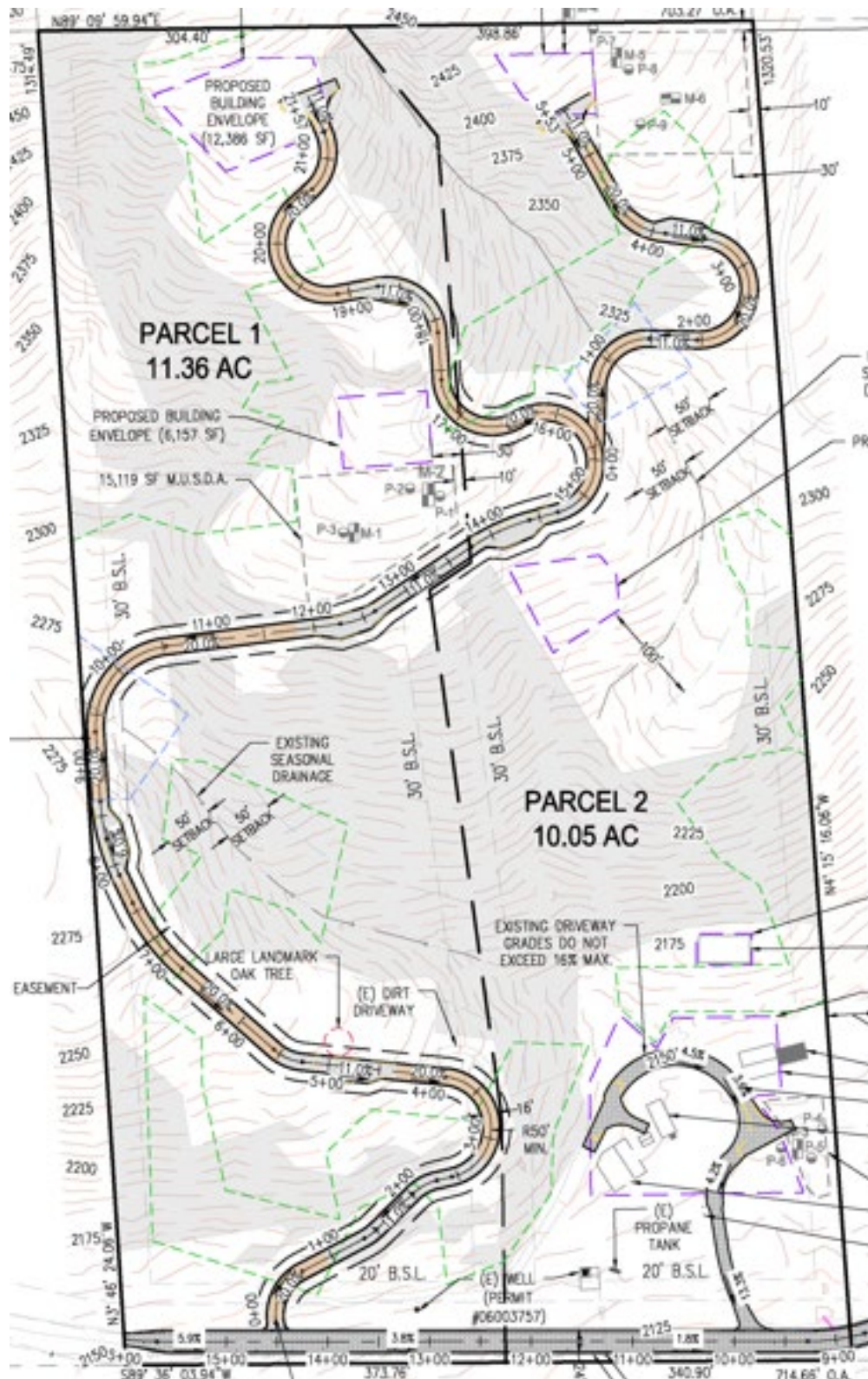


Figure 1.2 – Proposed Tentative Parcel Map (Enlarged)

**Project Site and Surrounding Land Uses:**

The project parcel, 12100 Scenic Drive (APN: 060-150-063), is a 21.41-acre parcel located in an unincorporated area of Nevada City, CA, approximately 1.8 miles southeast of downtown North San Juan and 6.8 miles northwest of downtown Nevada City. The project parcel is accessed via Scenic Drive from Tyler Foote Crossing Road, approximately 2.2 miles northeast of State Highway 49. The project parcel is zoned AG-20 (General Agricultural with a minimum parcel size of 20.00 acres) and has a RUR-20 (Rural with a minimum parcel size of 20.00 acres) General Plan designation.

There is an existing single-family residence, a detached residential accessory structure located near the southeast corner of the property, and is served by a private well, on-site septic, and PG&E for electricity. In addition, the parcel has a second existing private well located on the southwest portion of the parcel. The project parcel farmland is designated as "Grazing Land" and is located in an area best characterized as blue oak – foothill pine woodland within a greater area dominated by mid elevation montane coniferous woodland plant communities. The site slopes up from approximately 2,100 feet elevation at the driveway entrance off Scenic Drive at the south end of the subject parcel to an elevation of approximately 2,500 feet at the northern end of the subject parcel.

The project parcel is directly bordered by five (5) parcels zoned General Agricultural with a minimum parcel size of 20.00 acres (AG-20) to the north, east, and west, and three (3) parcels zoned General Agricultural with a minimum parcel size of 10.00 acres (AG-10) to the south. All eight (8) of the parcels directly surrounding the project parcels have been developed with residential, rural, and accessory structures. Figure 2 on page 9 below shows the subject project parcel, surrounding properties, and the zoning of the area.



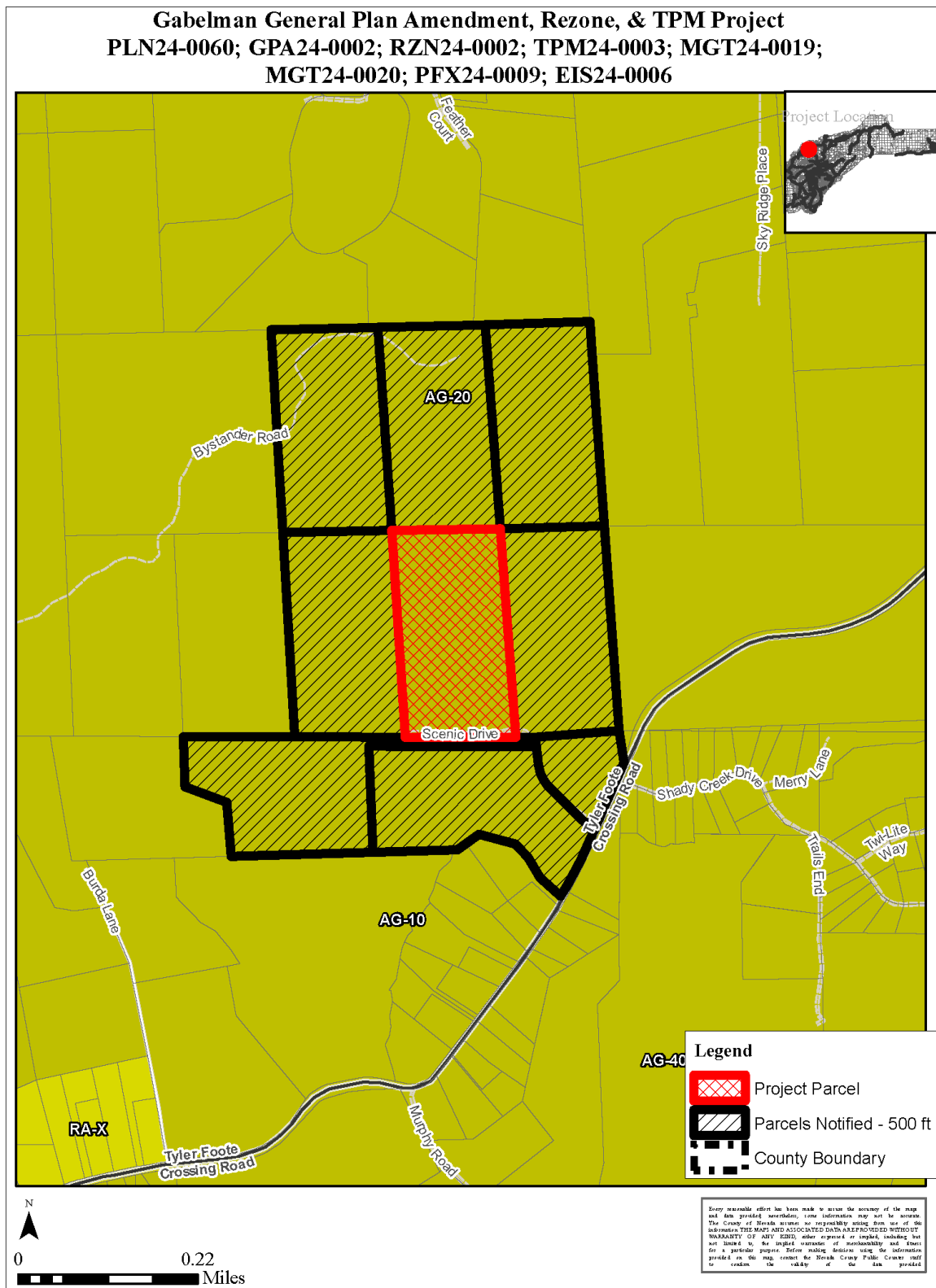


Figure 2 – Project Vicinity and Zoning (Attachment 8)

April 24, 2025

PLN24-0060; GPA24-0002; RZN24-0002; TPM24-0003; MGT24-0019; MGT24-0020; PFX24-0009; EIS24-0006  
Gabelman GPA/RZN/TPM Project

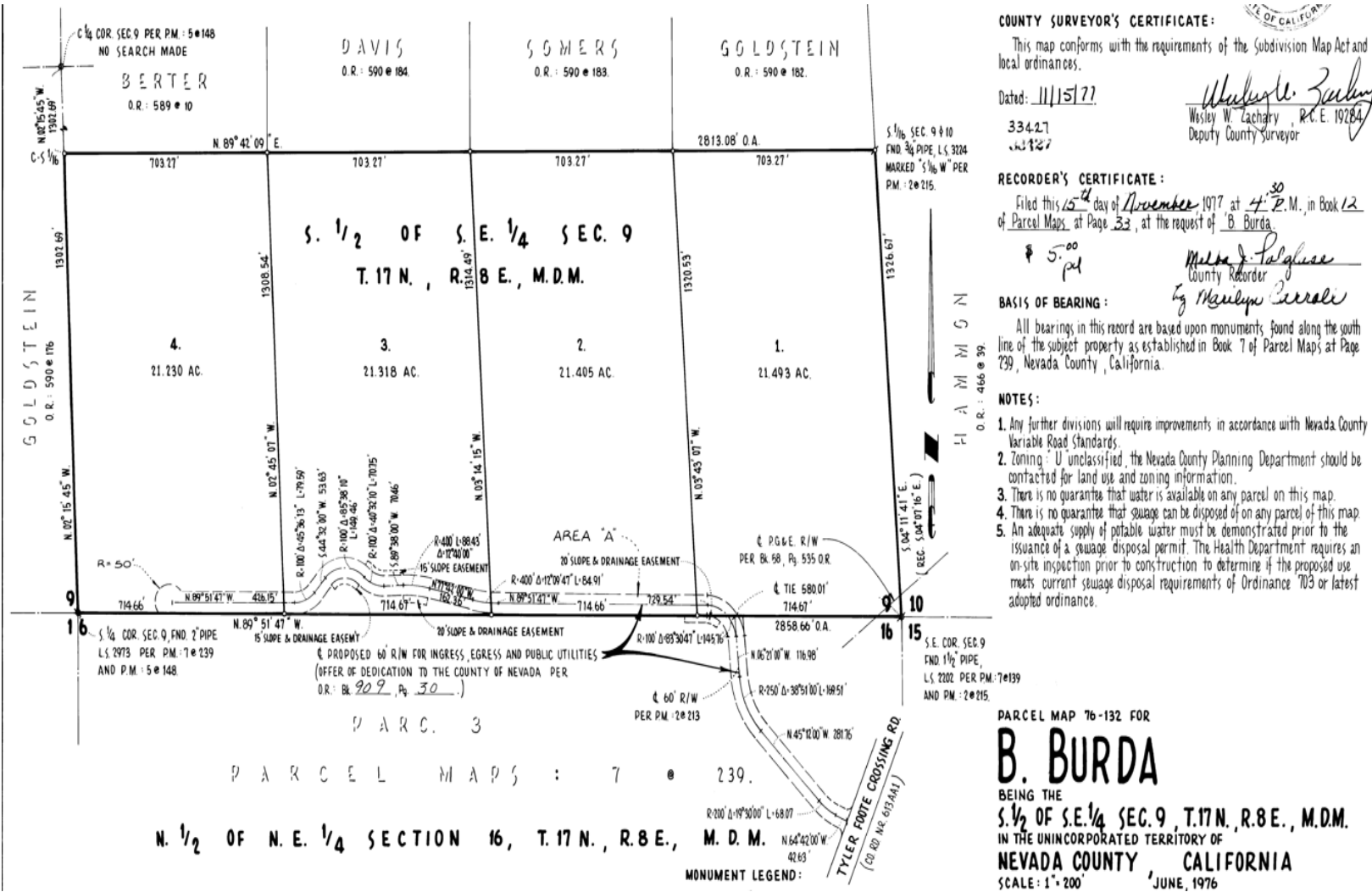


Figure 3 – Parcel Map PM76-132 found in Book 12 of Parcel Maps at Page 32 (Parcel 2)

**STAFF COMMENT:**

Several agencies and existing policy documents were consulted to determine the adequacy of this project. The agency comments and the results of Staff's policy review are discussed below.

**General Plan Amendment:** The project parcel is designated as Rural with a minimum parcel size of 20.00 acres (RUR-20), and Rural General Plan designations are intended to provide for development of compatible uses within a rural setting. Such uses may include rural residential at maximum densities ranging from 5 to 160 acres per dwelling (depending upon the specific development pattern and character of an area; availability of public facilities and services; and environmental constraints), agricultural operations and supporting agricultural production, natural resource production and management, and low-intensity recreation. The project

proposal includes a proposed General Plan Amendment from Rural with a minimum parcel size of 20.00 acres (RUR-20) to Rural with a minimum parcel size of 10.00 acres (RUR-10).

The proposed amendment is not consistent with the goals, objectives, policies, and implementation measures of the General Plan, because the proposed change of the General Plan designation would create an inconsistency with the general surrounding parcels, and has the potential to set a precedent for the surrounding parcels to the east, west, and north to modify the General Plan designations as well, which has the potential to alter the existing character of the neighborhood and increase the overall density of the area if those surrounding parcels were to apply to achieve the same result as the proposed parcel. The proposed amendment is not in the public interest and has the potential to adversely impact the health, safety, convenience, and welfare of the County, because the project parcel is in a remote area and has challenging topography, would increase the density in area that is designated very high fire severity, and is located on a dead end road where evacuation capabilities have not been improved but would be further impacted negatively as a part of the proposed project. The project site is not physically suitable for the requested General Plan designation and anticipated land use development(s). Factors considered to evaluate suitability include access, provision of public facilities and utilities, compatibility with nearby land uses, and presence or absence of resources and constraints as found in the Resource Standards.

The proposed amendment is inconsistent with and does not support the following General Plan Policies shown, and further explained below:

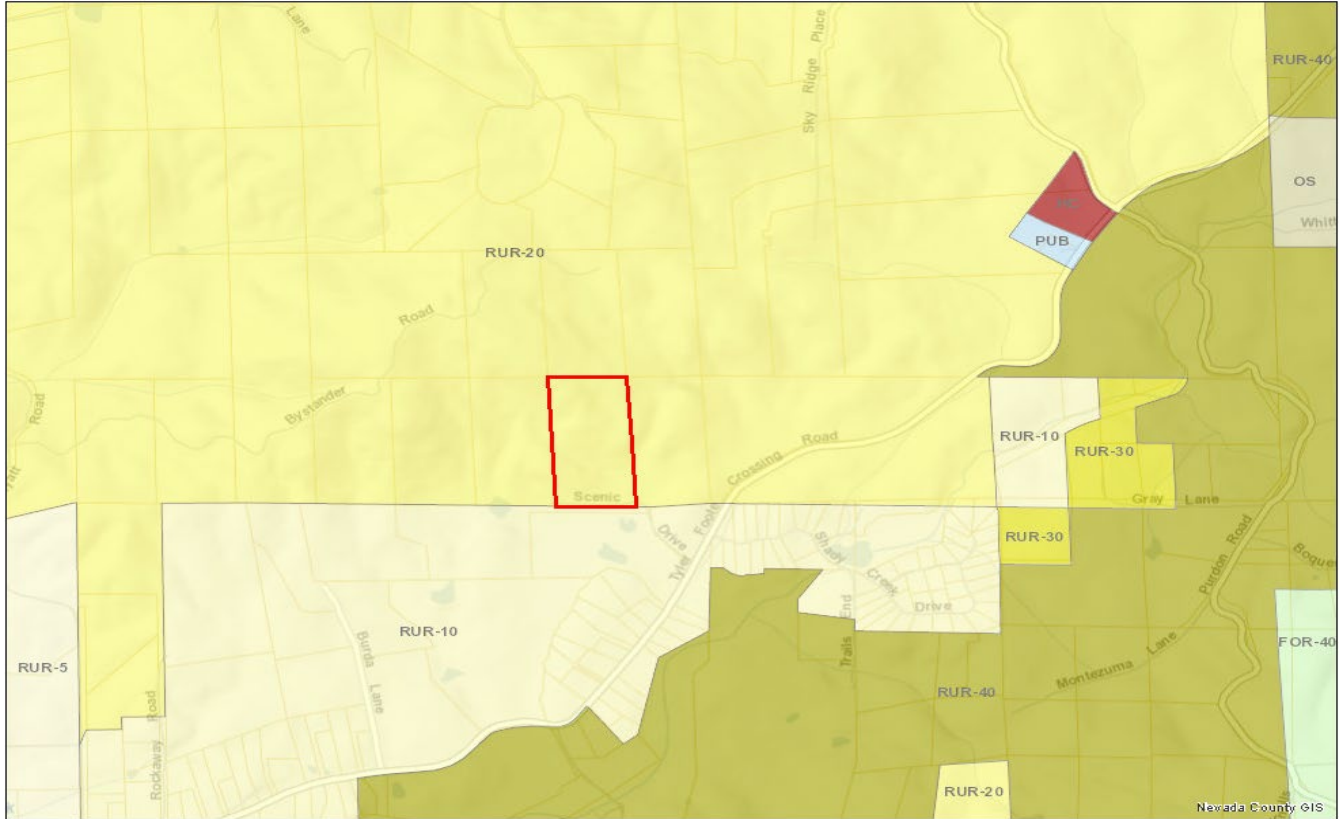
- General Plan Policy 1.1.2, which has the goal of promoting and encouraging growth in Community Regions while limiting growth in Rural Regions by limiting the type of growth in Rural Regions to those types and densities of development which are consistent with the open, rural lifestyle, pastoral character and natural setting and surrounding land use patterns which exists in these areas; and,
- General Plan Policy 1.6.1, which allows for growth while protecting, maintaining and enhancing communities and neighborhoods by establishing land uses which protect, enhance, and complement existing communities and neighborhoods; and,
- General Plan Policy EP-10.1.4, which has the goal of providing for adequate evacuation routes in areas of high fire hazard; and,
- General Plan Policy SF-10.6.3, which has the goal of providing land use patterns and development standards that shall minimize hazards resulting from wildfire, flooding, earthquake, slope failure, avalanche, and other natural occurrences.
- General Plan Policy 13.9, which has the goal of ensuring development in the vicinity of significant oak groves of all oak species shall be designed and sited to maximize the long-term preservation of the trees and the integrity of their natural setting.

The project parcel is located within a Rural Region, and as discussed above, the proposed change of the General Plan designation would create an inconsistency with the general surrounding parcels, and has the potential to set a precedent for the surrounding parcels to modify the General Plan designations as well, which has the potential to alter the existing character of the neighborhood and increase the overall density of the area if those surrounding parcels were to apply to achieve the same result as the proposed parcel. The natural setting would be adversely impacted by the proposed amendment due to the additional density it would allow for, which would then open up potential development in areas designated as environmentally sensitive areas (steep slopes, ephemeral drainage channels, and Landmark Oak Grove), which would all be avoided if the proposed amendment were to be denied. Additionally, the project parcel is located in a remote area and is accessed off of a dead end road that already has limited evacuation capabilities, therefore the amendment would increase density without providing any benefit to evacuation routes and capabilities in the case of a natural disaster. The grade of the project site alone requires a Petition for Exceptions to Fire Safe Driveway standards, as the project parcels topography ranges up to 50% slope in certain areas, and the access roads proposed as a part of the amendment would all be over 16% grade and would be required to be paved due to this area receiving harsh weather conditions that would prohibit emergency access to the proposed building envelopes. Therefore, demonstrating a number of inconsistencies with multiple General Plan Policies that would all be avoided if the amendment were to be denied.

The recorded Parcel Map 76-132 found in Book 12 of Parcel Maps at Page 33 (Attachment 10), demonstrates that the previously approved Parcel Map (which created the project parcel and surrounding parcels to the east and west) created parcels of relatively the same size and same configuration, and that the intent of providing parcels that are all relatively similar in size, with the same configuration, and same General Plan designation was to keep the character of the surrounding area the same and consistent with one another. Throughout the past few decades the Nevada County General Plan has been updated a handful of times, and each time an update was completed, the General Plan designation of the general project area including the project parcel, was not modified due to the conclusion made that the existing General Plan designation of RUR-20 was accurate and the correct designation for the overall area due to the remoteness of the area, the difficult topography, and presence of environmentally sensitive resources. The proposed project would disrupt those similarities and consistencies that have already been achieved as a part of the previous land use mapping completed during the General Plan adoption, which would be avoided if the proposed amendment were to be denied.

Additionally, as required by General Plan Policy 2.6, the applicant submitted an Economic Analysis which determined that the project would have a negligible impact to the County's jobs housing balance due to the fact that the land division would allow for one (1) additional home, which has the potential to provide additional property taxes, sales taxes, and other discretionary revenues that the County can place into economic development efforts to retain and attract jobs. Due to the fact that this proposed project would have a very minor impact on the ability to provide additional property taxes, sales taxes, and other discretionary revenues due to only one (1) additional parcel being proposed that could allow for one (1) additional

single-family residence, there would be no real positive impact from an economic standpoint, and numerous environmentally sensitive areas (ESAs) would be impacted to receive such a minor increase in potential tax revenue. Figure 4 provided below shows the current General Plan designation, which demonstrates a clear line that separates the RUR-20 from the RUR-10, and Figure 6 included on page 15 provides a good visual representation of the inconsistency between the existing and proposed General Plan designations that the proposed project would create, if approved.



**Figure 4 – Current General Plan Land Use Designation Map**

**Rezone:** The project parcel is located in a Rural District, where the purpose is to preserve the existing open, pastoral character of rural areas, allowing for the development of compatible uses within a rural setting, including lower-density residential uses, agricultural operations and support uses, natural resource production and management, and low-intensity recreation. The project parcel has a Zoning District designation of General Agricultural with a minimum parcel size of 20.00 acres (AG-20), and the General Agricultural Zoning District designation is intended to provide areas for farming, ranching, agricultural support facilities and services, low intensity uses, and open space. It is consistent with all agricultural-oriented General Plan land use designations, as well as those designations that allow for more intensive uses. Agricultural uses are of primary importance and all other uses are secondary.

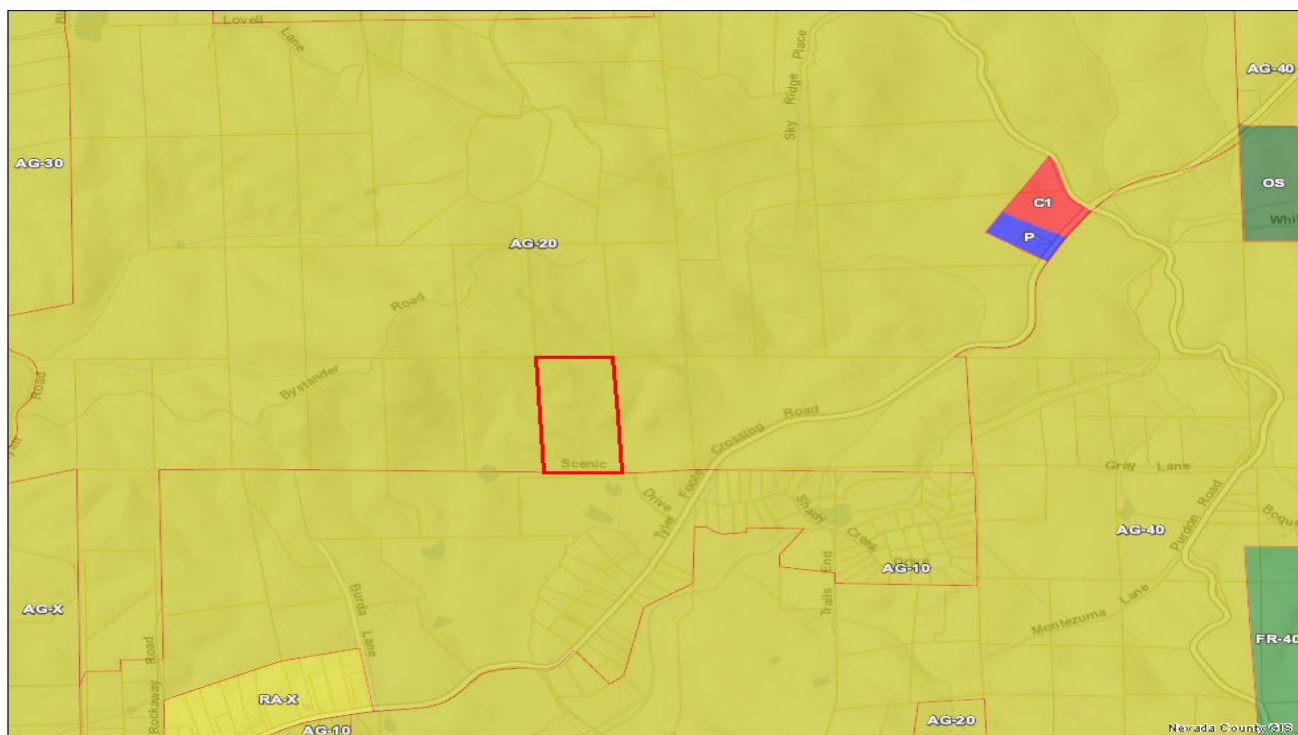
The proposed rezone is not consistent with the provisions because the proposed change of the Zoning District designation would create an inconsistency with the general surrounding parcels, and has the potential to set a precedent for the surrounding parcels to the east, west, and north to modify the Zoning District designations as well, which has the potential to alter the existing character of the neighborhood if those surrounding parcels were to apply to achieve the same result as the proposed parcel. While the parcels directly south are zoned AG-10, these parcels directly connect to Tyler Foote Crossing Road, a County maintained road, and the majority of all of the parcels to the south are between 1-3 acres in size, which is significantly smaller than the project parcel. The proposed rezone is not in the public interest, and has the potential to create adverse impacts to the health, safety, convenience, and welfare of the County, because the project parcel is in a remote area and has challenging topography, would increase the density in area that is designated very high fire severity, and is located on a dead end road where evacuation capabilities have not been improved but would be further impacted negatively as a part of the proposed project therefore further demonstrating that the project site is not physically suitable for the requested and rezone and anticipated land use development(s). Due to the numerous exceptions and variations to the current standards identified in the Nevada County Code that would be needed to make the project compliant with Nevada County Code standards the proposed project has the potential to create further adverse impacts that would not be present with denial of the proposed project.

The proposed Rezone to from AG-20 to AG-10 would allow for the project parcel to be divided into a maximum of two (2) parcels and be compliant with the minimum design standards and requirements of the Nevada County Code, which is what the proposed project aims to achieve; however, as mentioned previously, and to reiterate, the rezoning of the parcel would create an inconsistency with the zoning of the parcels directly adjacent to the north, east, and west of the project parcel. Additionally, the recorded Parcel Map 76-132 found in Book 12 of Parcel Maps at Page 33 (Attachment 10), demonstrates that the previously approved Parcel Map (which created the project parcel and surrounding parcels to the east and west) created parcels of relatively the same size and same configuration, and that the intent of providing parcels that are all relatively similar in size, with the same configuration, and Zoning District designation was to keep the character of the surrounding area the same and consistent with one another.

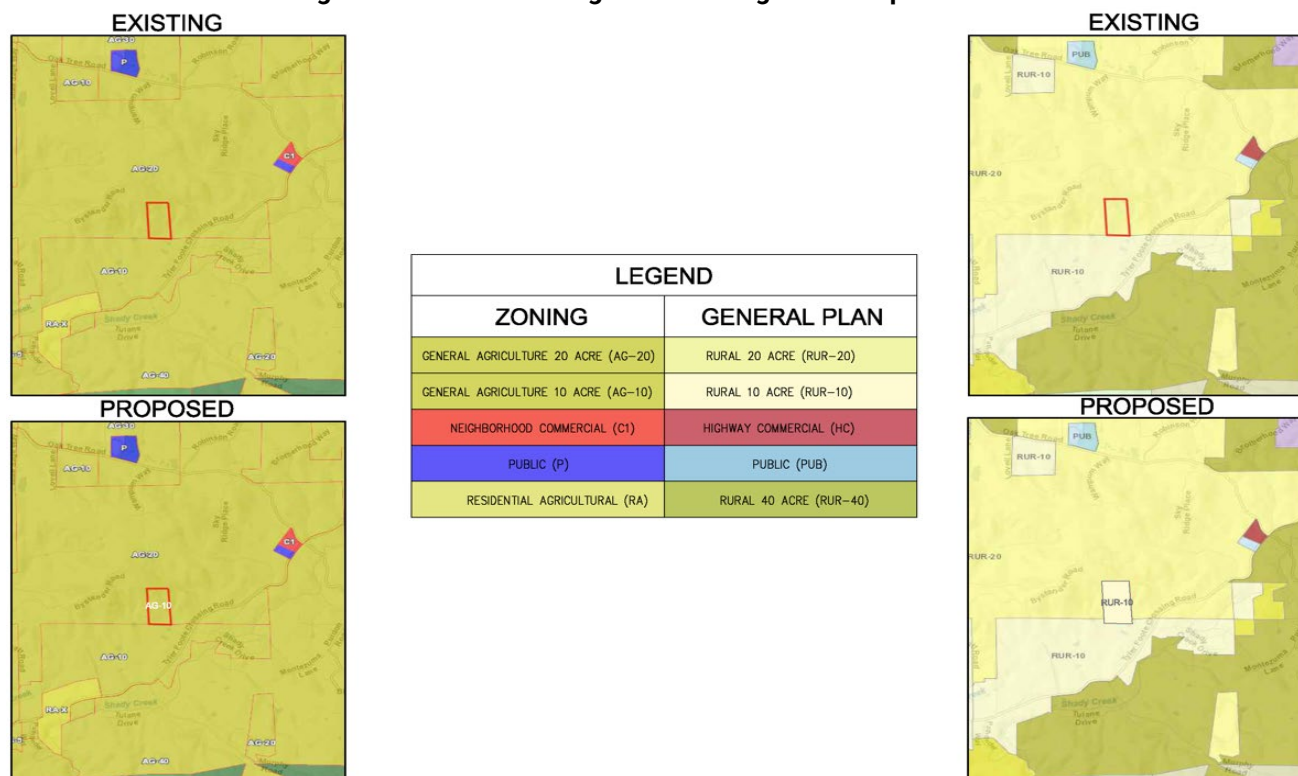
Throughout the past few decades the Nevada County Zoning District Map designations have been updated a handful of times, and each time an update was completed, the Zoning District designation of the general project area, including the project parcel, was not modified due to the conclusion made that the existing Zoning District designation of AG-20 was accurate and the correct designation for the overall area due to the remoteness of the area, the difficult topography, and presence of environmentally sensitive resources. The proposed project would disrupt those similarities and consistencies that have already been achieved as a part of the previous County zoning efforts, as the existing 20.00-acre minimum sizes are appropriate for the project parcel and the surrounding area. Figure 5 provided on page 15 shows the current Zoning District designation, which demonstrates a clear line that separates the AG-20 from the AG-10, and Figure 6 included on page 15 provides a good visual representation of the



inconsistency between the existing and proposed Zoning District designations that the proposed project would create, if approved.



**Figure 5 – Current Zoning District Designation Map**



**Figure 6 – General Plan Amendment and Rezone Exhibit Map from Applicant**

April 24, 2025

**Tentative Parcel Map:** The Tentative Parcel Map (TPM24-0003) proposes to subdivide the approximately 21.41-acre parcel into two parcels of approximately 11.36-acres (Proposed Parcel 1) and 10.05-acres (Proposed Parcel 2) in size. The proposed project site has a General Plan designation of Rural with a minimum parcel size of 20.00-acres and a corresponding Zoning District designation of General Agricultural with a minimum parcel size of 20.00-acres (AG-20). Due to the minimum parcel size for both the General Plan designation and Zoning District designation requiring a minimum parcel size of 20.00-acres, the 21.41-acre project parcel would not be eligible for subdivision. Recorded Parcel Map 76-132 found in Book 12 of Parcel Maps at Page 33 (Attachment 10), demonstrates that the previously approved Parcel Map (which created the project parcel and surrounding parcels to the east and west) created parcels of relatively the same size and same configuration, and that the intent of providing parcels that are all relatively similar in size, with the same configuration, and both the General Plan designation and Zoning District designation was to keep the character of the surrounding area the same and consistent with one another and has been in place through numerous General Plan and Zoning Ordinance updates over the past few decades.

The project site is not physically suitable for the land division and the proposed density of development and the Resource Standards of County Zoning Regulations, evidenced by the proposed project parcel being only 21.41-acres in size when the current General Plan and Zoning District designations require the parcel be a minimum of 40.00-acres to be eligible. Additional evidence that the project site is not physically suitable for the land division is that the project site is located in a remote area on a dead end road, contains challenging topography which would not allow for fire safe standard access roads to be constructed without approval of a Petition for Exceptions to Fire Safe Driveway standards, increases the density in an area where evacuation capabilities are already challenging, provides a very minimal positive economic impact, and would multiple environmentally sensitive areas and protected resources such as steep slopes, ephemeral drainage channels, and Landmark Oak Grove.

Additionally, the design of the proposed subdivision and its improvements would cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, because the proposed project proposes multiple construction activities that are proposed to occur in multiple areas that contain designated ephemeral drainage channels and Landmark Oak Grove, which would all be completely avoided by not amending the General Plan or Zoning District designations.

**Watercourse Management Plan:** There are aquatic resources within the project area, including natural drainage areas within the southern and central sections of the subject parcel. The existing drainage areas would be considered ephemeral drainages given the topography of the site and would only contain water during and shortly thereafter precipitation events. Additionally, the USGS Map indicates the waterways as ephemeral waterways. However, given the ephemeral drainages do contain a defined bed and bank and signs of flow, they are subject to the 50-foot non-disturbance requirements of the Nevada County Code for disturbance related to protected aquatic resources.

Therefore, a Watercourse Management Plan (MGT24-0019) by Greg Matuzak with Greg Matuzak Environmental Consulting, LLC has been prepared to allow ground disturbance activities along the access roads within the proposed project areas that cross the ephemeral drainages that contain a 50-foot non-disturbance buffer. Upgrades to existing culverts will be required and the existing access roads will need to be widened as part of the proposed project. The proposed building envelopes for each proposed parcel on the proposed parcel map are designed to keep the construction of structures outside of the non-disturbance buffers of these drainage channels, and the proposed M.U.S.D.As are designed to keep the applicable septic system components outside of the non-disturbance buffers of these drainage channels as well; however, the required grading of the access roads to provide access to these areas, as mentioned above, will cross these drainage channels that contain a 50-foot non-disturbance buffer.

Drainage channels are considered environmentally sensitive areas (ESAs), and while a Watercourse Management Plan has been prepared to attempt to limit the potential impacts to these drainage channels, due to the topography, vegetation, and presence of other existing environmentally sensitive areas, crossing these drainages would be inevitable to provide access to the proposed building envelopes and M.U.S.D.As, which would be completely avoided if the proposed General Plan Amendment and Rezone were to be denied.

**Oak Resources Management Plan:** The project area is located in an area best characterized as blue oak – foothill pine woodland within a greater area dominated by mid elevation montane coniferous woodland plant communities. The tree canopy is generally open and comprised of foothill pine, with canyon live oak (*Quercus chrysolepis*), interior live oak (*Quercus wislizeni*), black oak (*Quercus kelloggii*), buckeye (*Aesculus californica*), Pacific madrone (*Arbutus menziesii*), and occasional ponderosa pine (*Pinus ponderosa*). The subject parcel includes protected oak resources, including multiple areas of Landmark Oak Grove and a single Landmark Oak tree which are considered environmentally sensitive areas (ESAs) pursuant to Title 12, Chapter 4, Section 12.04.215 of the Nevada County Code, and potential impacts to such protected resources include removal of or encroachment into the dripline of protected oak resources. Therefore, an Oak Resources Management Plan (MGT24-0020) by Greg Matuzak with Greg Matuzak Environmental Consulting, LLC has been developed and clearly outlines the proposed compensatory mitigation to fully mitigate for impacts to such protected oak resources.

A total of 6.8 acres of landmark grove occur within the project area and a total area of landmark grove canopy to be potentially removed by the upgrades to access roads would be a maximum of 0.3 acres of native oak and other hardwood trees pertaining to those mapped landmark groves will be removed as part of the proposed project, as shown on the Tentative Parcel Map (Attachment 9). The project area does not contain suitable areas for the onsite planting of oak saplings or acorns given the steep slopes and shading within the greater part of the project area; therefore, the Oak Resources Management Plan below recommends that a 0.3-acre compensatory mitigation credit be purchased through the Bear Yuba Land Trust program for the removal of landmark grove canopy. Given none of the trees to be removed within a mapped

landmark grove have been removed or will be removed prior to the approval of a permit for the Project, the compensatory mitigation would be on a 2:1 mitigation ratio.

Additionally, while all proposed building envelopes and M.U.S.D.A's ensure proposed development areas associated with each of the newly created two parcels within the subject parcel will be located outside of these environmentally sensitive areas (ESAs), the proposed grading activities required for the access roads would cut directly through multiple areas designated as Landmark Oak Grove, which would be completely avoided if the proposed project were to be denied.

**Petition for Exceptions to Fire Safe Driveway Standards:** The average elevation in the project area is approximately 2,328 feet above mean sea level (MSL) with the highest elevation of approximately 2,500 feet above MSL within the northern border of the project area and the lowest elevation of approximately 2,100 feet above MSL within the southwestern section of the project area, at the driveway entrance of Scenic Drive. The proposed project proposes a Petition for Exceptions to Driveway Standards for driveway slopes exceeding 16% for the proposed improvements for the access roads due to the topography of the project site being steep in nature with slopes ranging from up to 50%.

Pursuant to Title 12, Chapter 4, Section 12.04.213 of the Nevada County Code, steep slopes (slopes in excess of 30% grade) are considered to be environmentally sensitive areas (ESAs) and therefore requires the approval and implementation of a Steep Slopes Management Plan in order to perform any grading or construction activities within those environmentally sensitive areas. A Steep Slopes Management Plan (MGT20-0041) was previously approved in June of 2020 for the grading of an access road and proposed grading in areas with slopes greater than 30%, which provided best management practices and mitigation measures for construction activities within slopes in excess of 30%. The proposed driveway improvements are required to be consistent with Nevada County Fire Safe Driveway Standards, and the proposed grading will cut into areas there currently have a grade in excess of 16%. While the proposed design and driveway layout for the project avoids areas with more than 30% slope wherever possible, the proposed driveway will need to increase to a maximum 20% slope in order to minimize site disturbance, large cut/fill areas, and impact to oak trees.

Proposed Parcel 1 will be accessed directly off of Scenic Drive from an existing driveway that is proposed to be improved to Nevada County driveway Standards (including a Petition for Exception to exceed 16% grade in various locations due to the natural topography and existing driveway grade), and Proposed Parcel 2 is currently accessed via an existing driveway will be improved to meet Nevada County Fire Safe Driveway standards. In order to ensure that no slope will exceed 20%, a Mitigation Measure is included in the draft Initial Study/Mitigated Negative Declaration that states, "for all surfaces proposed over 16%, all weather surfaces will need to be indicated on the site plan, with the appropriate base and surface per Nevada County Standards. Under no conditions will any slope over 20% be allowed." While a Petition for Exceptions to Fire Safe Driveway Standards and a previously approved Steep Slopes Management Plan are being utilized in order to provide the best attempt to prevent negative

impacts to existing soil conditions, slope stability, and erosion due to the grading in areas that exceed 30%, these potential impacts would be completely avoided if the proposed project were to be denied.

### **ENVIRONMENTAL REVIEW:**

The Planning Department prepared a draft Initial Study and proposed Mitigated Negative Declaration (IS/MND) for the proposed project (EIS24-0006). The Initial Study was available for a public review period of 31-days (March 21, 2025 through April 21, 2025 at 5:00 p.m.). The Initial Study identified potential impacts associated with this project to air quality, biological resources, cultural resources, geology/soils, hazards and hazardous materials, hydrology and water quality, noise, transportation, tribal cultural resources, utilities/service systems, and wildfire; mitigation measures were identified to reduce potential impacts to less than significant levels.

Based on the technical information submitted with this application, review of pertinent policy and regulatory documents, and consultation with appropriate local, state, and federal agencies, all of the potential impacts that were identified have been mitigated below levels of significance; therefore, a Mitigated Negative Declaration is the appropriate environmental document for this project. Therefore, staff recommends that the Planning Commission provide a recommendation to the Board of Supervisors to adopt the proposed draft Initial Study/Mitigated Negative Declaration for this project.

### **SUMMARY:**

The property owner, Michael Gabelman, is seeking a General Plan Amendment (GPA24-0002) to establish a Rural with a minimum parcel size of 10.00 acres (RUR-10) General Plan Land Use designation, a Rezone (RZN24-0002) to establish a General Agriculture with a minimum parcel size of 10.00 acres (AG-10) Zoning District designation, and a Tentative Parcel Map (TPM24-0003), an Oak Resources management Plan (MGT24-0019), a Watercourse Management Plan (MGT24-0020), and a Petition for Exceptions to Fire Safe Driveway Standards (PFX24-0009) to subdivide the existing approximately 21.41-acre parcel into two (2) parcels of approximately 11.36-acres (Proposed Parcel 1) and 10.05-acres (Proposed Parcel 2).

The Planning Department has reviewed the proposed project and found that no significant physical environmental impacts would occur as a result of this action; however, after review of the proposed project, the Planning Department has found that the proposed amendment is not consistent with the goals, objectives, policies, and implementation measures of the General Plan and the provisions of the Nevada County Code, because the proposed project would create an inconsistency with the sizes of all of the surrounding parcels to the north, east, south, and west of the project parcel, and would also create an inconsistency with the General Plan designation and character of the surrounding area in relation to all of the adjacent parcels to the north, east, and west. Additionally, the proposed project site is not physically suitable for the proposed project due to a number of factors considered to evaluate suitability of the site.

April 24, 2025

These factors considered include access, provision of public facilities and utilities, compatibility with nearby land uses, and presence or absence of resources and constraints as found in the Resource Standards. The project parcel is located in a remote area on a dead end road, contains challenging topography which would not allow for fire safe standard access roads to be constructed without approval of a Petition for Exceptions to Fire Safe Driveway standards, would increase the density in an area where evacuation capabilities are already challenging, and would provide a very minimal positive economic impact, and would impact multiple environmentally sensitive areas and protected resources such as steep slopes, ephemeral drainage channels, and Landmark Oak Grove

Due to the numerous Management Plans and the Petition for Exceptions to Fire Safe Driveway Standards associated with the proposed project, the proposed project would not be consistent with the surrounding area and has the potential to create potential adverse impacts to health, safety, convenience, and welfare of the County that would not be present with denial of the proposed project. Given that the proposed project requires a General Plan Amendment and Rezone, which are legislative actions, the increased density in an area with a designated high fire hazard severity and less than adequate infrastructure on top of being inconsistent with multiple General Plan Policies (1.1.2, 1.6.1, EP-10.1.4, SF-10.6.3, and 13.9), staff is unable to make the findings to support the proposed project.

The Planning Department is recommending that the Planning Commission make a recommendation to the Board of Supervisors to approve the Mitigated Negative Declaration as adequate environmental review for the project; however, the proposed entitlements cannot be supported due to the reasons listed. Therefore, the Planning Department recommends that the Planning Commission make a recommendation to the Board of Supervisors to deny the General Plan Amendment, deny the Rezone, deny the Tentative Parcel Map, deny both the Oak Resources and Watercourse Management Plans, and deny the Petition for Exceptions to Fire Safe Driveway Standards, as provided for below.

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**RECOMMENDATION:**

Staff recommends the Planning Commission take the following actions:

- I. After reviewing and considering the proposed Mitigated Negative Declaration (EIS24-0006), recommend that the Board of Supervisors adopt the proposed Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan pursuant to Sections 15074 and 15097 of the California Environmental Quality Act Guidelines, and make Findings A through C:
  - A. That there is no substantial evidence in the record supporting a fair argument that the proposed project, as mitigated and conditioned, might have any significant adverse impact on the environment; and



- B. That the proposed Mitigated Negative Declaration reflects the independent judgment of the Zoning Administrator; and that the mitigation measures, as agreed to by the applicant, will reduce potentially significant impacts to less than significant levels; and
  - C. That the location and custodian of the documents which constitute the record of these proceedings is the Nevada County Planning Department, 950 Maidu Avenue, Nevada City, California.
- II. After reviewing and considering the proposed General Plan Amendment application (GPA24-0002), recommend that the Board of Supervisors deny amending the General Plan Land Use Map Designation of APN: 060-150-063 from Rural with a minimum parcel size of 20.00 acres (RUR-20) to Rural with a minimum parcel size of 10.00 acres (RUR-10), based on the findings A through C set forth in Title 12, Chapter 5, Section 090 of the Nevada County Code, shown below:
- A. That the proposed amendment is not consistent with the goals, objectives, policies, and implementation measures of the General Plan and the provisions of this Code, more specifically General Plan Policy 1.1.2 which has the goal of limiting growth in Rural Regions by limiting the type of growth in Rural Regions to those types and densities of development which are consistent with the open, rural lifestyle, pastoral character and natural setting and surrounding land use patterns which exists in these areas, and General Plan Policy 1.6.1 which allows for growth while protecting, maintaining and enhancing communities and neighborhoods by establishing land uses which protect, enhance, and complement existing communities and neighborhoods, because the proposed project would create an inconsistency with the sizes of all of the surrounding parcels to the north, east, south, and west of the project parcel, and would also create an inconsistency with the General Plan designation and character of the surrounding area in relation to all of the adjacent parcels to the north, east, and west. Additionally, the proposed amendment is not consistent with General Plan Policies 2.6 and 2.7 because the project would have a negligible impact to the County's jobs housing balance and would provide a very minor positive impact on the ability to provide additional property taxes, sales taxes, and other discretionary revenues; and,
  - B. That the proposed amendment will be detrimental to the public interest, health, safety, convenience, or welfare of the County, and is inconsistent with General Plan Policy EP-10.1.4 which has the goal of providing for adequate evacuation routes in areas of high fire hazard, and General Plan Policy SF-10.6.3 which has the goal of providing land use patterns and development standards that shall minimize hazards resulting from wildfire, flooding, earthquake, slope failure, avalanche, and other natural occurrences, because the project parcel is in a remote area and has challenging topography, would increase the density in area

that is designated very high fire severity, and is located on a dead end road where evacuation capabilities have not been improved but would be further impacted negatively as a part of the proposed project; and,

- C. That for General Plan land use map amendment, the site is not physically suitable for the requested Plan designation(s) and anticipated land use development(s). Factors considered to evaluate suitability include access, provision of public facilities and utilities, compatibility with nearby land uses, and presence or absence of resources and constraints as found in the Resource Standards. The project parcel is located in a remote area on a dead end road, contains challenging topography which would not allow for fire safe standard access roads to be constructed without approval of a Petition for Exceptions to Fire Safe Driveway standards, would increase the density in an area where evacuation capabilities are already challenging, and would provide a very minimal positive economic impact, and would impact multiple environmentally sensitive areas and protected resources such as steep slopes, ephemeral drainage channels, and Landmark Oak Grove.

III. After reviewing and considering the proposed Rezone application (RZN24-0002), recommend that the Board of Supervisors adopt of the attached Ordinance denying the Rezone to amend Zoning District Map No. 37 to rezone APN: 060-150-063 from General Agriculture with a minimum parcel size of 20.00 acres (AG-20) to General Agriculture with a minimum parcel size of 10.00 acres (AG-10) based on the findings A through C set forth in Title 12, Chapter 5, Section 090 of the Nevada County Code, shown below:

- A. That the proposed rezone is not consistent with the provisions of the Nevada County Code, and does not further the goals, objectives, policies, and implementation measures of this Code, more specifically General Plan Policy 1.1.2 which has the goal of limiting growth in Rural Regions by limiting the type of growth in Rural Regions to those types and densities of development which are consistent with the open, rural lifestyle, pastoral character and natural setting and surrounding land use patterns which exists in these areas, and General Plan Policy 1.6.1 which allows for growth while protecting, maintaining and enhancing communities and neighborhoods by establishing land uses which protect, enhance, and complement existing communities and neighborhoods, because the proposed project would create an inconsistency with the sizes of all of the surrounding parcels to the north, east, south, and west of the project parcel, and would also create an inconsistency with the Zoning District designation and character of the surrounding area in relation to all of the adjacent parcels to the north, east, and west; and,
- B. That the proposed amendment will be detrimental to the public interest, health, safety, convenience, or welfare of the County, and is inconsistent with General Plan Policy EP-10.1.4 which has the goal of providing for adequate evacuation

routes in areas of high fire hazard, and General Plan Policy SF-10.6.3 which has the goal of providing land use patterns and development standards that shall minimize hazards resulting from wildfire, flooding, earthquake, slope failure, avalanche, and other natural occurrences, because the project parcel is in a remote area and has challenging topography, would increase the density in area that is designated very high fire severity, contains numerous protected resources pursuant to Nevada County Resource Standards that would be negatively impacted, and is located on a dead end road where evacuation capabilities have not been improved but would be further impacted negatively as a part of the proposed project;

- C. That for Zoning District map amendment, the site is not physically suitable for the requested zoning district(s) and anticipated land use development(s). Factors considered to evaluate suitability shall include access, provision of public facilities and utilities, compatibility with nearby land uses, and presence or absence of resources and constraints as found in the Resource Standards. The project parcel is located in a remote area on a dead end road, contains challenging topography which would not allow for fire safe standard access roads to be constructed without approval of a Petition for Exceptions to Fire Safe Driveway standards, would increase the density in an area where evacuation capabilities are already challenging, would provide a very minimal positive economic impact, and would impact multiple environmentally sensitive areas and protected resources such as steep slopes, ephemeral drainage channels, and Landmark Oak Grove.

IV. After reviewing and considering the proposed Tentative Parcel Map application (TPM24-0003), recommend that the Board of Supervisors deny the proposed Tentative Parcel Map (TPM24-0003) to subdivide the approximately 21.41-acre parcel into two parcels of approximately 11.36-acres (Proposed Parcel 1) and 10.05-acres (Proposed Parcel 2), based on the findings set forth in Title 13 Subdivisions of the Nevada County Code, shown below:

- A. That the proposed division is not consistent with the Goals, Objectives, and Policies of the Nevada County General Plan, and with the development standards of the Nevada County Land Use and Development Code, because the parcel is only 21.41 acres and size and contains a General Plan designation of RUR-20 and a Zoning District designation of AG-20, which would require that the project parcel be a minimum of 40.00 acres to be eligible for the land division; and,
- B. That adequate public services do not exist within the project area and are not available to serve the project, including County-maintained roads offsite, privately maintained roads onsite, and fire protection from the North San Juan Fire Protection District, because due to the location of the proposed building envelopes and M.U.S.D.As shown on the Tentative Parcel Map, significant

grading and construction activities will be needed to provide adequate public services to these areas. Additionally, the remoteness of the project area and being within a very high fire severity zone, challenging topography, evacuation capability challenges due to being located on a private, dead end road, and the requirement for a Petition for Exceptions to Fire Safe Driveway standards due to the slope of the proposed access roads would cause negative impacts on the ability to provide fire protection; and,

- C. That the site is not physically suitable for the type of development and the proposed density of development and the Resource Standards of County Zoning Regulations, evidenced by the proposed project parcel being located in a remote area on a dead end road, containing challenging topography which would not allow for fire safe standard access roads to be constructed without approval of a Petition for Exceptions to Fire Safe Driveway standards, increasing the density in an area where evacuation capabilities are already challenging, providing a very minimal positive economic impact, and by impacting multiple environmentally sensitive areas and protected resources such as steep slopes, ephemeral drainage channels, and Landmark Oak Grove.
  - D. That the design of the proposed subdivision and its improvements would cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, because the proposed project proposed multiple construction activities that are proposed to occur in multiple areas that contain designated ephemeral drainage channels and Landmark Oak Grove, which would all be completely avoided by not amending the General Plan or Zoning District designations;
  - E. That the design of the proposed subdivision and its improvements are likely to cause serious public health problems, as evidenced by the remoteness of the project area, lack of evacuation capabilities in the event of a fire or other natural disaster, being located within a very high fire severity zone on a dead end road, challenging topography the requirement for a Petition for Exceptions to Fire Safe Driveway standards due to the slope of the proposed access roads; and,
  - F. That findings can be made pursuant to Government Code Section 66474 that requires project denial, as discussed above.
- V. After reviewing and considering the proposed Watercourse Management Plan application (MGT24-0019), recommend that the Board of Supervisors deny the proposed watercourse Management Plan, prepared by Greg Matuzak with Greg Matuzak Environmental Consulting, LLC, to allow ground disturbance within the non-disturbance buffers of multiple existing drainage channels, making findings A-B, shown below:

- A. That construction activities are proposed to occur in multiple areas that contain designated ephemeral drainage channels identified by the Watercourse Management Plan prepared by Greg Matuzak with Greg Matuzak Environmental Consulting, LLC, a Nevada County Pre-Qualified Biologist, and that significant loss of resource value has the potential to occur on the project parcel as a part of the proposed project due to the increased density associated with the proposed amendment and rezone that would cause unnecessary impacts on the this sensitive resource area that would be completely avoided if the proposed General Plan and Zoning District amendment were to be denied, as pursuant to Title 12, Chapter 4, Section 12.04.201, avoidance of impacts to environmentally sensitive resources and natural site constraints is the primary, preferred approach; and
- B. That there are feasible alternatives because the area proposed for the proposed building envelopes and M.U.S.D.As are located to the rear of the property, which would impact additional ephemeral drainage channel areas that are not necessary due to having sufficient area towards the front areas of the project parcel that would limit the amount of construction activities within these protected resources, compared to other areas of the project parcel. Additionally, due to the thick existing vegetation and challenging topography, the project Biologist, Greg Matuzak with Greg Matuzak Environmental Consulting, LLC, determined that avoidance and minimization were not possible, and that the only feasible mitigation would be to implement Best Management Practices (BMPs); however, all impacts to this environmentally sensitive resource would be completely avoided if the proposed General Plan and Zoning District amendment were to be denied.

VI. After reviewing and considering the proposed Oak Resources Management Plan application (MGT24-0020), recommend that the Board of Supervisors deny the proposed Oak Resources Management Plan, prepared by Greg Matuzak with Greg Matuzak Environmental Consulting, LLC, to allow ground disturbance and tree removal within areas designated as existing Landmark Oak Grove, making findings A-B, shown below:

- A. That construction activities are proposed to occur in multiple areas designated as being Landmark Oak Grove identified by the Oak Resources Management Plan prepared by Greg Matuzak with Greg Matuzak Environmental Consulting, LLC, a Nevada County Pre-Qualified Biologist, and that significant loss of resource value has the potential to occur on the project parcel as a part of the proposed project due to the increased density associated with the proposed amendment and rezone that would cause unnecessary impacts on the this sensitive resource area that would be completely avoided if the proposed General Plan and Zoning District amendment were to be denied, as pursuant to Title 12, Chapter 4, Section 12.04.201, avoidance of impacts to environmentally sensitive resources and natural site constraints is the primary, preferred approach; and

- B. That there are feasible alternatives because the area proposed for the proposed building envelopes and M.U.S.D.As are located to the rear of the property, which would impact additional Landmark Oak Grove that is not necessary due to having sufficient area towards the front areas of the project parcel that would limit the amount of construction activities within these protected resources, compared to other areas of the project parcel. Additionally, due to the thick existing vegetation and challenging topography, the project Biologist, Greg Matuzak with Greg Matuzak Environmental Consulting, LLC, determined that avoidance and minimization were not possible, and that the only feasible mitigation would be to make a payment of an in-lieu fee to the approved BYLT compensatory mitigation fund for protected oak resources; however, all impacts to this environmentally sensitive resource would be completely avoided if the proposed General Plan and Zoning District amendment were to be denied.

VII. After reviewing and considering the proposed Petition for Exceptions to Fire Safe Driveway Standards application (PFX24-0009), recommend that the Board of Supervisors deny the proposed Petition for Exceptions to Fire Safe Driveway Standards to allow the proposed access roads to exceed 16% grade while staying under 20% grade, based on the findings A through E set forth in Title 4, Chapter 3, Section 4.03.040 of the Nevada County Code, shown below:

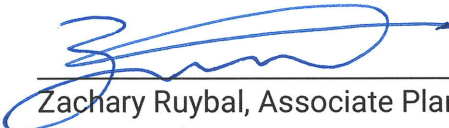
- A. That there are not special circumstances and conditions which affect the subject parcel, as all of the surrounding parcels are similar in size, configuration, and have similar challenging topography throughout the area and are approximately sized and zoned to minimize potential adverse impacts. Additionally, the surrounding parcels have environmentally sensitive areas within them similar to the project parcel, and therefore the same circumstances and conditions apply to not just the subject parcel; and,
- B. That this exception is not necessary for the preservation of the substantial property right of the owner, including the construction of residential driveways to access the proposed building envelope and M.U.S.D.A areas. The subject property is located in a partially developed area with similar challenging topography and environmentally sensitive areas as the surrounding parcels that are in the approximate same size and configuration of the surrounding parcels; and,
- C. That the granting of this exception will be detrimental or injurious to other property in the local area because amending both the General Plan and Zoning District designations will cause the need for additional exceptions to Nevada County Code standards due to the challenging topography, the remoteness, and the lack of improvement of emergency evacuation on a dead end road, which has the potential to cause complications for the surrounding parcels; and,



April 24, 2025

- D. That the granting of this exception will constitute a grant of special privilege that is inconsistent with the limitations upon other similar properties, because the topography of the project parcel consists mainly of steep slopes in excess of 30% and the proposed project would further impact drainage channels and Landmark Oak Grove through the required paving and vegetation clearance required due to the access roads being greater than 16% slope throughout; and,
- E. That this exception will not provide the same practical effect of the fire protection and is not supported by the County of Nevada Office of the Fire Marshal and the North San Juan Fire Protection District, who are responsible for assuring compliance with Public Resources Code Section 4290, because the proposed project would increase density in the area that is already designated as a very high fire severity zone and being located on a dead end road without adequate evacuation improvement.

Respectfully Submitted,

  
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Zachary Ruybal, Associate Planner