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NEVADA COUNTY PLANNING COMMISSION
NEVADA COUNTY, CALIFORNIA

MINUTES of the meeting of November 12, 2020, 1:30 p.m., Board Chambers, Eric Rood Administration Center, 950 Maidu Avenue, Nevada City, California via remote

MEMBERS PRESENT: Chair Aguilar and Commissioners Coleman-Hunt, Duncan, and Johansen.

MEMBERS ABSENT: Commissioner Greeno.

STAFF PRESENT: Planning Director, Brian Foss; Principal Planner, Tyler Barrington; Deputy County Counsel, Rhetta VanderPloeg; Administrative Assistant, Shannon Paulus.

PUBLIC HEARINGS:

1. Gray Rezone Page 2, Line 51
PLN20-0057; GPA20-0002; RZN20-0003; PFX20-0002; EIS20-0002

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

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

CHANGES TO AGENDA: None.

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

Administrative Assistant Shannon Paulus noted that a public comment had been received from Tony Lauria via email earlier that day. The comment discussed their opposition to the Idaho Maryland Mine Rise Gold project, and commented on hydrology, geology, zoning in the area, and historical dangers of mining. She noted that the entire emailed comment had been forwarded to the Commission for their consideration prior to the meeting.

Chair Aguilar closed public comment at 1:33

COMMISSION BUSINESS: None

CONSENT ITEMS:

1. Acceptance of 2020-09-24 Planning Commission Hearing Minutes.

Motion to approve the Consent Item by Commissioner Johansen; **second** by Commissioner Duncan. **Motion carried on a voice vote 4/0.** (Commissioner Greeno was absent)

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PUBLIC HEARING:

PLN20-0057; GPA20-0002; RZN20-0003; PFX20-0002; EIS20-0002: A proposed General Plan Land Use Map Amendment and Zoning District Map Amendment to change the privately owned former Nevada County Consolidated Fire District property, located at 13115 Ridge Road from Public (PUB)/Neighborhood Commercial (C1) to Residential (RES)/Single Family Residential (R1). The project includes the consideration of a Petition for Exception from the minimum fire safe driveway standards to allow for 15-foot wide access easement. **RECOMMENDED ENVIRONMENTAL DETERMINATION:** Recommend that the Board of Supervisors approve the Negative Declaration (EIS20-0002). **RECOMMENDED PROJECT ACTION:** Recommend that the Board of Supervisors approve the Resolution for the proposed General Plan Amendment (GPA20-0002) and adopt the Ordinance amending Zoning District Map (ZDM) #40a to rezone APN: 008-070-034 **PLANNER:** Tyler Barrington, Principal Planner

Principal Planner Tyler Barrington introduced himself and project applicant Ian Gray to the Commission. He explained that the project was to rezone a property from Public (PUB)/Neighborhood Commercial (C1) to Residential (RES)/Single Family Residential (R1) as well as a Petition for Exception to County driveway standards to allow for a lesser easement width for the existing driveway. He provided background for the project, including when it was declared a surplus property by the Nevada County Consolidated Fire District (NCCFD) Board in 2015, as well as when NCCFD originally submitted a General Plan Amendment application in 2016. The project was considered by the Planning Commission May 26, 2016 which resulted in a 3-0 vote, 2 absent; and a Board of Supervisors meeting on August 9, 2016 where no action was taken. He stated that some discussion had occurred at the meeting that an auto repair business was interested in the parcel, and the Board expressed its concern regarding that usage. NCCFD was directed to seek another buyer or submit a Use Permit with their application for that use. The fire district did sell the property to a private owner at that time, who later sold the property to applicant Ian Gray. He discussed the current project, including its location, size, surrounding uses, as well as site characteristics. He stated that the project was located within the Grass Valley Sphere of Influence, however the City had indicated it did not desire to annex the property at this time. He discussed the buildings currently on the property, the proposed changes, impervious surface area, and the necessary upgrade to the septic system at the site. He stated that Residential was likely the highest and best use for the property, as the Board had been reluctant to change the General Plan designation from Public to Neighborhood Commercial in 2016. He stated that the proposed zoning of R1 was consistent with surrounding land uses, and consistent with development in the area. He discussed the environmental review that had been done for the project, including a draft Initial Study which had been circulated for public comment from October 7, 2020 to October 27, 2020. No adverse comments were received, and the Initial Study found that no significant impacts would occur as a result of the project. He discussed the economic study that was done, as well as the Petition for Exception. He finished his presentation with staffs recommendations that the Planning Commission recommend that the Board of Supervisors approve the Resolution for the Negative Declaration, approve the Resolution for the Petition for the Exception to Standards, Approve the Resolution approving the General Plan Amendment, and recommend that the Board adopt the Ordinance approving the Zoning District Map Amendment. He offered to answer any questions.

Chair Aguilar asked for any questions of staff.

Commissioner Johansen asked if all the properties in that area were on septic.

99

100 Planner Barrington answered that it was his understanding that the properties in that area were
101 primarily on septic, no community sewer was present there.

102

103 Commissioner Johansen asked if the septic had been working on that small of acreage.

104

105 Planner Barrington answered yes. He believed that a small septic system was already onsite and
106 added that the applicant had already completed preliminary testing and submitted it to the
107 Environmental Health Department. Environmental Health reviewed the testing and found it to be
108 adequate for the applicants proposed use.

109

110 Commissioner Johansen asked if there were any plans to bring regional sewer to the area.

111

112 Planner Barrington answered he was not aware of that at this time. He added that per Planning
113 Department policy, the project had been routed to the City of Grass Valley to determine if they
114 desired annexation of the property to serve it. He believed that the sewer line was approximately
115 2,000 linear feet from the site, which made it infeasible for City annexation.

116

117 Commissioner Johansen clarified at this time.

118

119 Planner Barrington answered that was correct.

120

121 Chair Aguilar thanked Commissioner Johansen and asked for any further questions.

122

123 Chair Aguilar asked if the applicant desired to add anything.

124

125 Applicant Ian Gray of 117 Oliver Lane in Grass Valley answered that he did not really have
126 anything to add. He did say that he had a contract and an approved permit to upgrade the septic
127 system at the site. He stated that the upgrade of the septic system was part of the requirements
128 from Environmental Health.

129

130 Chair Aguilar asked if Environmental Health had him outline repair areas, etc....

131

132 Mr. Gray answered yes, they were very thorough.

133

134 Chair Aguilar thanked Mr. Gray and invited him to chime in throughout the hearing if he desired.

135

136 Commissioner Duncan asked if Mr. Gray if he had any plans to reduce the impervious surface area
137 on the site.

138

139 Mr. Gray answered yes. He believed that the Building Department would have some input, and
140 that he would likely need to obtain a variance to the setback. He added he did not want that much
141 concrete or asphalt at the site, and he intended on putting in nice garden area.

142

143 Commissioner Duncan asked if his intention was to rent out the property or if he would occupy it
144 himself.

145

146 Mr. Gray answered he did not know at this time. He added that it would take about a year to build
147 everything.

148
149 Commissioner Duncan thanked Mr. Gary.
150
151 Commissioner Coleman-Hunt asked Mr. Gray if it had been disclosed to him when he purchased
152 the property that it was zoned Public.
153
154 Mr. Gray answered yes.
155
156 Commissioner Coleman-Hunt asked how a private entity could purchase a publicly zoned
157 property. She stated that by zoning it was designated to be publicly owned.
158
159 Chair Aguilar asked staff to answer the question.
160
161 Planner Barrington answered that the zoning was Neighborhood Commercial, and the General
162 Plan Designation was Public which resulted in a conflict. He stated that before selling the property
163 to a private entity, the Fire District had reached out to public entities as required by government
164 code sections and found no one who wanted it for a public use.
165
166 Commissioner Coleman-Hunt answered that she had seen that. She asked if the Fire District were
167 to sell the property to a private entity if they would be the ones to request the change in designation.
168
169 Planner Barrington answered that in 2016 they did, the Board did not approve the rezone at that
170 time. He was unsure of the specific government code section that allowed the Fire District to sell
171 to a private entity, however, he believed that Mr. Gray was the second private owner of the
172 property.
173
174 Commissioner Coleman-Hunt asked the applicant to provide additional details on how the rezone
175 would improve the economic vitality of the area.
176
177 Mr. Gray stated for the record that he had purchased the property from a private individual, he was
178 the second private owner. He answered Commissioner Coleman-Hunt that the economic vitality
179 of the area would be improved because someone would be residing at the property who would be
180 part of the community. They would be buying things, improving the property, living, working, and
181 spending money in the area.
182
183 Commissioner Coleman-Hunt clarified that it was a single-family residence, not a multifamily
184 residence proposed.
185
186 Mr. Gray answered that was correct. He added he had no intention of turning it into a large parking
187 lot or storage yard.
188
189 Chair Aguilar asked for further questions.
190
191 Chair Aguilar opened public comment at 1:51 p.m.
192
193 Chair Aguilar closed public comment at 1:52 p.m.
194
195 Chair Aguilar asked if anyone had anything to add before a vote was taken.
196

197 Planner Barrington stated that the economic study supported Mr. Grays comments, considering
198 the property would be occupied as opposed to vacant.
199

200 Chair Aguilar stated he also believed that the Assessor's office would reassess the property,
201 resulting in higher taxes. He added that if Mr. Gray rented the property it would result in more
202 income for him, which he could then spend in the community. He said overall it was a good project,
203 and he recalled when the project had come before the Planning Commission before. He felt that
204 this project was the best-case scenario. Chair Aguilar stated that the project was in his area, and he
205 would appreciate if someone else would make a motion.
206

207 Commissioner Duncan asked if the other Commissioners had any additional comments.
208

209 Commissioner Coleman-Hunt stated that she was uncomfortable with the re-designation of public
210 land to private land because she felt that many community needs could be met with a piece of
211 property like this one. She did not feel that had been explored. She realized that it would be difficult
212 for a private landowner to do that, however the community could use parks, dog parks, etc. She
213 felt there was a lot of opportunity to use publicly designated property beyond a storage yard. She
214 said that the answer would perhaps not be found today, maybe in 10 years. She stated that removing
215 it from public designation meant it would never go back and felt that the community would lose
216 the potential public value. She stated she would have been more comfortable with the project if it
217 met a need in the community for low income multi-unit housing.
218

219 Commissioner Duncan stated that a process had to be followed when lands were designated as
220 public, as well as when they are declared as surplus and sold. She suspected that the process had
221 been followed. She added that attempts had been made to sell the property to other public buyers
222 who were not interested, which was why the property went to a private buyer.
223

224 Commissioner Coleman-Hunt stated it had not been disclosed.
225

226 Commissioner Duncan asked if she meant disclosed that the process had been followed.
227

228 Commissioner Coleman-Hunt answered no, the process to change it from public to private. She
229 stated that Commissioner Duncan was saying her vote did not matter because it had already been
230 decided. She stated that she had no way to assess if she was comfortable with that process.
231

232 Commissioner Duncan answered that she would never discount her vote. She encouraged
233 Commissioner Coleman-Hunt and the other Commissioners that if they had questions about the
234 staff report to reach out to staff. She asked for Counsels input.
235

236 Deputy County Counsel Rhetta VanderPloeg answered that they did have the Surplus Land Act,
237 and that she could not speak to how the process for this parcel had been handled as it had been
238 with another public entity, not the County. She did feel comfortable that it was handled per
239 Government Code Section 54220, which required how public lands were disposed of. Her
240 understanding was that the Fire District went through that process and no one was interested, and
241 all the rules were abided by for the conveyance of property.
242

243 Commissioner Coleman-Hunt answered yes, for the sale of the property to a private individual,
244 not the actions before the Commission today.
245

246 Chair Aguilar stated that the people who decided to surplus the land, the Board of Directors for
247 the Fire Department, were elected individuals who had examined the fiscal health of the
248 Department and had decided to surplus the land. He stated that the democratic process had been
249 followed, and it was within their purview to surplus that land. He said that by the time the project
250 comes before the Planning Commission the question was whether it was reasonable to rezone the
251 property considering no public entities had been interested. He asked what the Commission had
252 voted for the first time the project went to hearing.

253
254 Planner Barrington answered that the Planning Commission had voted 3-0 recommending that the
255 Board approve the rezone to Commercial. The Board did not act on the item.

256
257 Chair Aguilar said the project had been scrutinized. He hoped that Commissioner Coleman-Hunt
258 felt more comfortable with the project, he certainly did. He said that at some point a private
259 individual took on the responsibility of this property and the taxes associated with it, and Mr. Gray
260 had decided that his best use for the property was to turn it into an R1 property.

261
262 Commissioner Coleman-Hunt stated that was why she had asked Mr. Gray if it had been disclosed
263 to him that this was a publicly designated property, which he affirmed. She stated that she felt that
264 the role of the Planning Commission was to approve the change of designation of public to private,
265 which she was uncomfortable doing because she felt the community could use more public land.
266 She said it might not be a project that could be developed today for that purpose, however once it
267 was taken out of public it would never go back. She said that she understood the sales process,
268 however today they were being asked to re-designate the property so it could be developed.

269
270 Chair Aguilar thanked Commissioner Coleman-Hunt for her input.

271
272 **Motion by Commissioner Duncan** to recommend that the Board of Supervisors adopt the
273 attached Resolution for the Negative Declaration (EIS20-0002), pursuant to Section 15074 of the
274 California Environmental Quality Act guidelines, based on the findings contained with the draft
275 Resolution (*Attachment 1*): **Second by Commissioner Johansen. Motion carried on a roll call**
276 **vote 3/1 (Commissioner Coleman-Hunt voted no, Commissioner Greeno was absent).**

277
278 **Motion by Commissioner Duncan** to recommend that the Board of Supervisors approve the
279 proposed Petition for Exceptions to Driveway Standards (PFX20-0002) to allow a 15-foot wide
280 driveway access easement based on findings contained within the draft Resolution (*Attachment 3*)
281 **Second by Commissioner Johansen. Motion carried on a roll call vote 3/1 (Commissioner**
282 **Coleman-Hunt voted no, Commissioner Greeno was absent).**

283
284 **Motion by Commissioner Duncan** to recommend that the Board of Supervisors adopt the
285 attached Resolution amending the General Plan Land Use Map Designation for APN: 008-070-
286 034 from Public (PUB) to Residential (RES) based on findings contained within the draft
287 Resolution (*Attachment 4*). **Second by Second by Commissioner Johansen. Motion carried on**
288 **a roll call vote 3/1 (Commissioner Coleman-Hunt voted no, Commissioner Greeno was**
289 **absent).**

290
291 **Motion by Commissioner Duncan** to recommend that the Board of Supervisors adopt the
292 attached Ordinance approving the Rezone to amend Zoning District Map No. 040a to rezone APN
293 008-070-034 (from Neighborhood Commercial (C1) to Single-Family Residential (R1)) based on
294 the findings contained within the draft Ordinance (*Attachment 5*) **Second by Commissioner**

295 **Johansen. Motion carried on a roll call vote 3/1 (Commissioner Coleman-Hunt voted no,**
296 **Commissioner Greeno was absent).**

297
298 Discussion ensued regarding upcoming Commission meetings and ongoing project statuses.
299

300 Commissioner Johansen informed the Commission that although the election was not yet certified,
301 it was likely that he would be accepting a seat on the Board of Directors for the Nevada Irrigation
302 District. He added that this would be his last meeting. As a parting note he said that the Water
303 Element of the General Plan needed to be reevaluated.

304
305 Chair Aguilar thanked Commissioner Johansen for his service on the Commission. Chair Aguilar
306 announced that he would also be leaving the Commission, as he was moving outside of the district.
307 He would continue to serve through the end of the year. Supervisor Miller had chosen Patty Ingram
308 as his replacement.

309
310 **Motion by Commissioner Johansen; second by Commissioner Duncan to adjourn. Motion**
311 **carried on voice vote 4/0.**

312
313 There being no further business to come before the Commission, the meeting was adjourned at
314 2:11 p.m. to the next meeting *tentatively* scheduled for December 10, 2020, in the Board of
315 Supervisors Chambers, 950 Maidu Avenue, Nevada City.

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317
318 Passed and accepted this day of , 2020.

319
320 _____

321 Brian Foss, Ex-Officio Secretary