
NEVADA COUNTY BOARD OF SUPERVISORS

Board Agenda Memorandum

MEETING DATE: June 24, 2025

TO: Board of Supervisors

FROM: **Brian Foss, Planning Director**

SUBJECT: Public Hearing to consider the Nevada County Planning Commission's April 24, 2025 recommendation for the Gabelman Project to adopt the attached Resolution adopting a Mitigated Negative Declaration for the proposed Gabelman Project, to adopt the attached Resolution to deny the proposed Amendment to the Nevada County General Plan Land Use Map designation from Rural with a minimum parcel size of 20-acres (RUR-20) to Rural with a minimum parcel size of 10-acres (RUR-10) (GPA24-0002) and to deny the proposed Amendment to Zoning District Map No. 37 to rezone Assessor's Parcel Number 060-150-063 from General Agricultural with a minimum parcel size of 20-acres (AG-20) to General Agricultural with a minimum parcel size of 10-acres (AG-10) (RZN24-0002) for Assessor's Parcel Number (APN) 060-150-063, and to adopt a Resolution denying the Tentative Parcel Map (TPM24-0003), Watercourse Management Plan (MGT24-0019), Oak Resources Management Plan (MGT24-0020), and Petition for Exceptions to Fire Safe Driveway Standards (PFX24-0009) to subdivide the approximately 21.41-acres parcel into two (2) separate parcels of approximately 11.36-acres (Proposed Parcel 1) and 10.05-acres (Proposed Parcel 2) located on Assessor's Parcel Number 060-150-063.

RECOMMENDATION:

The Planning Commission, on April 24, 2025, recommended that the Board of Supervisors take the following environmental action:

- I. **Environmental Action:** Adopt the attached Resolution, adopting the proposed Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan pursuant to Sections 15074 and 15097 of the California Environmental Quality Act Guidelines, making the findings contained within the attached Resolution (*Attachment 1*).

The Planning Commission, on April 24, 2025, recommended that the Board of Supervisors take the following project actions:

- II. **Project Action:** Adopt the attached Resolution, denying amending the General Plan Land Use Map Designation 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) (GPA24-0002) and denying amending Zoning District Map No. 37 to rezone Assessor's Parcel Number 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) (RZN24-0002) of APN: 060-150-063, based on the findings contained with the draft Resolution (*Attachment 2*).

- III. **Project Action:** Adopt the attached Resolution, denying the proposed Tentative Parcel Map (TPM24-0003), Watercourse Management Plan (MGT24-0019), Oak Resources Management Plan (MGT24-0020), and Petition for Exceptions to Fire Safe Driveway Standards (PFX24-0009) based on the findings contained with the draft Resolution (*Attachment 3*).

FUNDING: No budget amendments are required.

ATTACHMENTS:

1. Draft Resolution and Draft Initial Study/Mitigated Negative Declaration
2. Draft Resolution: General Plan Amendment and Zoning Map Amendment
3. Draft Resolution: Tentative Parcel Map, Watercourse Management Plan, Oak Resources Management Plan, and Petition for Exceptions to Fire Safe Driveway Standards
4. Project Vicinity, Zoning, and Public Notice Map
5. Tentative Parcel Map and General Plan Amendment/Zoning District Amendment Exhibit
6. Parcel Map Recorded in Book 12 of Parcel Maps at Page 32 (PM76-132)
7. April 24, 2025 Planning Commission Staff Report (without attachments)
8. April 24, 2025 Planning Commission Meeting Minutes (draft)

PROJECT DESCRIPTION:

The project is a proposed General Plan Amendment from Rural with a minimum parcel size of 20.00 acres (RUR-20) to General Agricultural with a minimum parcel size of 10.00 acres (RUR-10), a Rezone from General Agricultural with a minimum parcel size of 20.00 acres (AG-20) to General Agricultural with a minimum parcel size of 10.00 acres (AG-10), 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).

General Plan Amendment: 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, which would increase the overall area density. 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 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.

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. Additionally, the proposed amendment is inconsistent with numerous General Plan Policies, which have been included below (see Attachment 7 for additional details regarding the General Plan Amendment):

- 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.

Rezone: 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.

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 (see Attachment 7 for additional details regarding the Rezone).

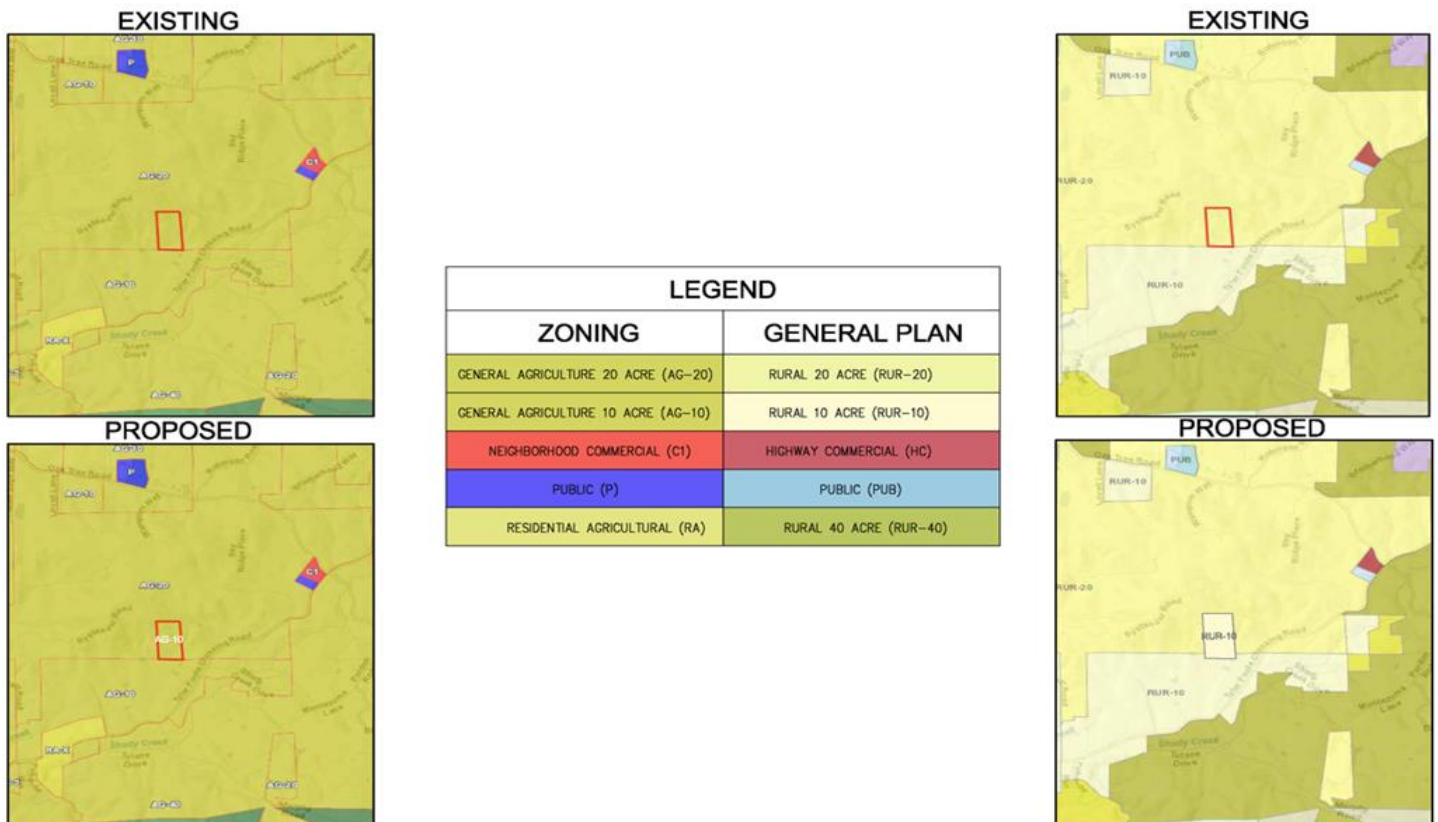


Figure 1: General Plan Amendment and Rezone Exhibit Map from Applicant

Tentative Parcel Map: 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. 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.

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, which are considered ephemeral waterways. 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. 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. See Attachment 7 for additional details regarding the Watercourse Management Plan.

Oak Resources Management Plan: 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. 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.

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. See Attachment 7 for additional details regarding the Oak Resources Management Plan.

Petition for Exceptions to Fire Safe Driveway Standards: 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%. 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. 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. See Attachment 7 for additional details regarding the Petition for Exceptions to Fire Safe Driveway Standards.

ENVIRONMENTAL REVIEW:

The Planning Department prepared a project specific draft Initial Study for the project and found that this project will not result in a significant physical change to the environment. The draft Initial Study made a good faith effort to disclose anticipated future impacts of the proposed project on the project site. The draft initial study/proposed Mitigated Negative Declaration was circulated for public comment between March 21, 2025 and April 21, 2025 (*Attachment 1*). The Notice of Availability/Notice of Intent to adopt a Mitigated Negative Declaration was sent to several local and state responsible agencies as well as surrounding property owners. As of this writing, no adverse comments were received as a result of this outreach. 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, staff has determined that a Mitigated Negative Declaration is the appropriate document for this project. The Planning Commission provided a 3-1 (1 absent) recommendation to the Board of Supervisors to adopt the draft Initial Study/proposed Mitigated Negative Declaration for this project.

PLANNING COMMISSION ACTION:

At the Meeting of April 24, 2025, the Planning Commission held a duly noticed public hearing to consider the proposed project including the draft Initial Study/Mitigated Negative Declaration, General Plan Amendment, Zoning District Map Amendment, Tentative Parcel Map, Watercourse Management Plan, Oak Resources

Management Plan, and Petition for Exceptions to Fire Safe Driveway Standards. After taking public testimony, hearing the project representative's presentation and applicant's presentation, and deliberating on the project, the Planning Commission, in considering the environmental action before them, voted 3-1 (1 absent) and recommended that the Board of Supervisors adopt the Initial Study/Mitigated Negative Declaration (EIS24-0006). Additionally, in considering all of the project actions before them and after deliberation, the Planning Commission concurred with the recommendations provided by the Planning Department that supported the action of denial of the proposed project, and voted 4-0 (1 absent) to recommend that the Board of Supervisors make the following actions: 1) Deny the General Plan Amendment to amend the amend the General Plan designation 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) (GPA24-0002); 2) Deny the Zoning District Map Amendment to rezone the subject parcel from General Agricultural with a minimum parcel size of 20.00 acres (AG-20) to General Agricultural with a minimum parcel size of 10.00 acres (AG-10) (RZN24-0002); 3) Deny the Tentative Parcel Map 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) (TPM24-0003); 4) Deny the Watercourse Management Plan to allow ground disturbance within the non-disturbance buffers of multiple existing drainage channels (MGT24-0019); 5) Deny the Oak Resources Management Plan to allow ground disturbance and tree removal within areas designated as existing Landmark Oak Grove (MGT24-0020); and, 6) Deny the Petition for Exceptions to Fire Safe Driveway Standards to allow the proposed access roads to exceed 16% grade while staying under 20% grade (PFX24-0009).

SUMMARY:

The applicant is seeking a General Plan Amendment from Rural with a minimum parcel size of 20.00 acres (RUR-20) to General Agricultural with a minimum parcel size of 10.00 acres (RUR-10), a Rezone from General Agricultural with a minimum parcel size of 20.00 acres (AG-20) to General Agricultural with a minimum parcel size of 10.00 acres (AG-10), 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 Commission has reviewed the proposed project and the recommended actions brought forth by the Planning Department, 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 Commission concurred with the Planning Department's recommendations, and 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. Therefore, based on the project's inconsistency with the Nevada County General Plan and Zoning Ordinance, the Planning Commission on April 24, 2025 on a 3-1 (1 absent) vote on the environmental action and a 4-0 (1 absent) vote on the project actions recommended that Nevada County Board of Supervisors take the project actions described below.

RECOMMENDATION: The Planning Commission has recommended that the Board of Supervisors take the following actions:

- I. **Environmental Action:** Adopt the attached Resolution, adopting the proposed Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan pursuant to Sections 15074 and 15097 of the

California Environmental Quality Act Guidelines, making the findings contained within the attached Resolution (*Attachment 1*).

- II. Project Action: Adopt the attached Resolution, denying amending the General Plan Land Use Map Designation 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) (GPA24-0002) and denying amending Zoning District Map No. 37 to rezone Assessor's Parcel Number 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) (RZN24-0002) of APN: 060-150-063, based on the findings contained with the draft Resolution (*Attachment 2*).
- III. Project Action: Adopt the attached Resolution denying the proposed Tentative Parcel Map (TPM24-0003), Watercourse Management Plan (MGT24-0019), Oak Resources Management Plan (MGT24-0020), and Petition for Exceptions to Fire Safe Driveway Standards (PFX24-0009) based on the findings contained with the draft Resolution (*Attachment 3*).

Item Initiated by: Zachary Ruybal, Associate Planner

Approved by: Brian Foss, Planning Director