



NEVADA COUNTY PLANNING COMMISSION
STAFF REPORT

HEARING DATE: October 28, 2021

FILE NO: PLN21-0051; GPA21-0001; RZN21-0001; EIS21-0002

APPLICANT/OWNER: Dylan Murty and Dana Law

REPRESENTATIVE: Andrew Cassano, Nevada City Engineering

PROJECT: The project is as proposed in a General Plan Land Use Map Amendment and Zoning District Map Amendment to change the subject project site, located at 10460 Harmony Ridge Road from Rural (RUR) – 5 to Rural (RUR) – 20 and a Zoning District Map Amendment to change the Zoning District from Residential Agricultural (RA) – 5 with Planned Development (PD) to General Agricultural (AG) – 20. The project as proposed, does not include a proposal to develop the parcel and only seeks to change the existing General Plan Land Use Map and Zoning District Map.

LOCATION: Located approximately 1-mile northeast of Highway 20 along Harmony Ridge Road at 10460 Harmony Ridge Road, Nevada City, in unincorporated Western Nevada County.

ASSESSOR'S PARCEL NO(s): 034-160-001

PROJECT PLANNER: Matt Kelley, Senior Planner

General Plan:	RUR-5	Water:	Well
Region:	Rural	Sewage:	Septic
Zoning:	RA-5-PD	Fire:	Nevada County Consolidated Fire
Flood Map:	0400	Schools:	Nevada City / NJUHSD D-1
ZDM #:	64	Recreation:	GV / NC Benefit Zone
Parcel Size:	91.01 acres	Sup. Dist.:	Hardy Bullock, District V
Date Filed:	02/24/2021		
Date Refiled:	06/17/2021		
Prev. File #(s):	CC98-001; FM90-017; GP90-002; Z90-002		
Farmland Map Designation:	Other Land		

ATTACHMENTS:

1. Draft Resolution: Initial Study/ Negative Declaration
2. Project Vicinity, Zoning and Public Notice Map
3. Draft Resolution: General Plan Amendment Exhibit

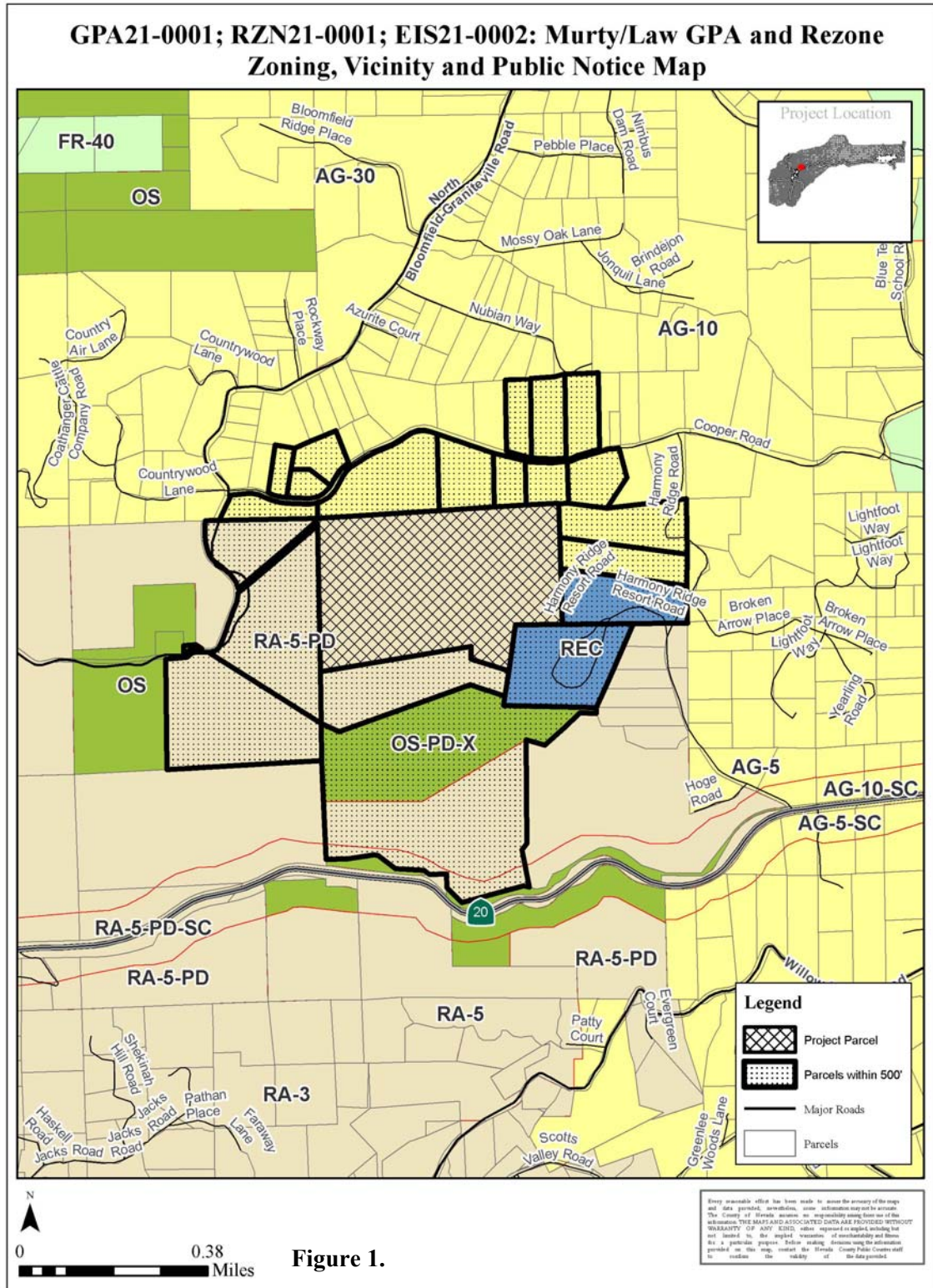
4. Draft Ordinance: Zoning Map Amendment Exhibit
5. Site Plan
6. Initial Distribution Comments Received

RECOMMENDATION:

- I. Environmental Action: Recommend Approval of the project Negative Declaration (EIS21-0002).
 - II. Project Action: Recommend Approval of the proposed General Plan Amendment (GPA21-0001) the Nevada County Board of Supervisors.
 - III. Project Action: Recommend Approval of the proposed Rezone RZN21-0001 to the Nevada County Board of Supervisors.
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Site Description, Project Location and Surrounding Land Uses: The undeveloped project site is located at 10460 Harmony Ridge Road within unincorporated western Nevada County of Nevada and is located approximately two miles northeast of the City of Nevada City. The subject parcel is further located northwest of Harmony Ridge Road, southeast of North Bloomfield Road and south of Cooper Road. Access to the subject parcel is by an off-site easement leading from North Bloomfield Road to the project site. The project site is zoned Residential Agriculture – 5 Acre (RA-5) with a Planned Development Combining District (PD) and it has a Rural – 5 Acre (RUR – 5) General Plan designation. Surrounding parcels are similarly zoned with RA-5-PD and AG-10 to the north, south and west and REC to the east (Figure 1). Parcels to the south are developed with existing single-family residential uses.

PROJECT DESCRIPTION: The project is a proposed General Plan Land Use Map Amendment and Zoning District Map Amendment to change the subject project site, located at 10460 Harmony Ridge Road from Rural (RUR) – 5 to Rural (RUR) – 20 and a Zoning District Map Amendment to change the Zoning District from Residential Agricultural (RA) – 5 with Planned Development (PD) to General Agricultural (AG) – 20. The project as proposed, does not include a proposal to develop the parcel and only seeks to change the existing General Plan Land Use Map and Zoning District Map.



STAFF COMMENT:

The approximately 91.01-acre project site is currently undeveloped with any structures, but has been historically mined and logged and has a network of skid roads and paths. Surrounding land uses included undeveloped parcels with similar historic uses, rural residential uses and a Recreational Vehicle Park and Campground immediately adjacent to the east of the subject project site.

The elevation of the subject project site, range from approximately 2,800 feet above mean sea level (AMSL) to approximately 3,420 feet AMSL. The subject parcel is characterized by moderate to steep southwest-facing closes and is located adjacent to off-site historical mining locations which are known as the former Hoge Mine and Harmony Shaft.

General Plan Amendment/Rezone:

The project site is zoned RA-5 and has a RUR-5 General Plan Land Use Map designation. The subject project site is currently zoned Residential Agriculture (RA-5) with Planned Development (PD) as shown on Zoning District Map 64 and has a RUR – 5 General Plan Land Use Designation. The applicant requests to amend the General Plan Land Use Designation from RUR – 5 to RUR – 20 and amend the Zoning District Map from RA-5 – PD to AG-20. The subject parcel is approximately 91.01 acres in size and based on the current zoning of RA-5-PD, it would allow for a density of 1 dwelling unit for every 5 acres, with an overall density of approximately 18 dwelling units.

It is assumed that the project site would be developed for residential uses, which are consistent with the General Agriculture Zoning District, along with the potential for commercial agriculture uses, including the potential for the cultivation of cannabis. The County does not impose landscaping, lighting or design review requirements on single-family development nor does the County enforce Conditions, Covenants and Restrictions (CC&Rs) of specific developments, which may require a specific design or color palate for future development of this site. A known subdivision map with CC&Rs did not create this parcel and therefore it is assumed that the County's site development standards, (setbacks, height, fencing, impervious surfacing, etc.) will ensure that future development of this site is compatible with surrounding development.

The subject parcel is approximately 91.01 acres in size and based on the current zoning of RA-5-PD it would allow for an overall density of 18 dwelling units. If approved, the overall density of the project site would be reduced by 14 units and allow for up to 4 dwelling units at a density of 1 dwelling unit for every 20 acres, based on the proposed AG-20 zoning district. As proposed, the General Plan Land Use Map Amendment and Rezone would result in the potential loss of up to 14 housing units, which could affect the overall availability of housing within the County. While the proposed project does not include a proposal at this time to subdivide the parcel into a maximum of 18 parcels, the potential would exist to subdivide the subject parcel in the future into a maximum of up to 4 parcels. From a future site development standard, it is anticipated that it may be somewhat difficult to subdivide the subject parcel into its maximum potential of 18 parcels, due to the project sites potential site development constraints including; areas of steep slopes, development of fire safe roads which meet County road standards, availability of septic and well capacity of each parcel, and the need for potential secondary access to a County maintained road.

While a subdivision of the subject project site is not proposed at this time, the applicant will be responsible for demonstrating that a future project can meet the County's comprehensive site development standards when proposing development including setbacks, fire safe road standards, legal access, building envelopes, demonstration of adequate water and sewage disposal capacity and impervious surface coverage. Furthermore, the project site is undeveloped and would be served by a water well and septic system to support future residential and commercial agricultural uses, if the project is approved. Correspondence from the County Environmental Health Division (whom is responsible for permitting water wells and septic systems) states that they have no objection to the proposed General Plan Amendment and Rezone for this property and permits would be required for an individual well and septic system. Thus, as disused above, due to the subject parcels potential site development constraints, the likelihood of being able to subdivide the subject parcel into a maximum of 18 parcels would potentially be limited and therefore, the limiting of the subject parcel to be subdivided into parcels which are limited in size to 20 acres is likely the highest and best use of the property.

While the project as proposed does not include a proposal for development at this time, the applicant has stated that they intend to develop the project site for residential uses and potentially commercial agricultural uses including the potential cultivation of cannabis. As proposed, the potential cultivation of cannabis would be compatible with the proposed General Agricultural Zoning District (AG-20), which would allow for the cultivation of cannabis, upon the issuance of appropriate Land Use Development Permits and Building Permits, as outlined in Nevada County Land Use and Development Code, Section L-II 3.30 – Cannabis Cultivation. Furthermore, any future commercial agricultural uses, including the potential cultivation of cannabis would be required to meet all required site development standards and setbacks from any Sensitive Sites as further outlined in Section L-II 3.30 of the Nevada County Land Use and Development Code and would be required to be compatible with all surrounding zoning districts including Residential Agricultural (RA) which is located to the south and west and Recreation (REC) which is located to the east of the subject parcel.

ZONING AND GENERAL PLAN CONSISTENCY:

The subject parcel is zoned Residential Agricultural (RA-5) with the Planned Development (PD) Combining District and has a Rural (RUR-5) General Plan Land Use designation. Should this project be approved, the property's General Plan Land Use and Zoning would be changed to be generally consistent with the current zoning of much of the surrounding area in terms of the General Agricultural Zoning District and Rural General Plan Land Use Designation (RUR-20/AG-20). As required by General Plan Policy 2.6, the applicant has submitted an Economic Analysis which determined that the project would have a negligible impact to the County's jobs housing balance and that future investment by the property owner would increase overall assessed value of the project site. In turn the increased assessed value which would result in a increase in property tax revenue to the County and an increase in sales tax revenue for local business due the needs of a typical residence in the County over the current existing vacant parcel. As discussed above, the site will require some work to ensure it can meet current development standards in the RUR-20/AG-20 designations, but overall, the general use of the property as a residence or potential commercial agricultural uses is compatible with the area.

ENVIRONMENTAL REVIEW:

Future development of this property will be subject to applicable local, state and federal codes, standards, permitting requirements and regulations that are applicable to the type of redevelopment that might be proposed. 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 redevelopment of this site. The draft initial study/proposed Negative Declaration was circulated for public comment between October 8 and October 27, 2021 (*Attachment 1*). The Notice of Availability/Notice of Intent to adopt a 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. Since this project will not result in the physical disturbance to the environment and will make the General Land Use and Zoning for the subject property consistent with other surrounding land uses, staff has determined that a Negative Declaration is the appropriate document for this project. Staff therefore recommends that the Planning Commission provide a recommendation to the Board of Supervisors to adopt the draft Initial Study/proposed Negative Declaration for this project.

INITIAL DISTRIBUTION COMMENTS RECEIVED:

As part of the Initial Distribution two of the neighboring property owners; B & W Resorts, Inc., owner of the Harmony Ridge Resort (APN: 034-160-004, 034-160-006) and Lee Auerbach owner of APN: 034-160-028, both of which are located east of the subject parcel submitted comments on the proposed project on March 23, 2021. For the consideration of the Planning Commission, staff has included a summary of these comments and response is provided below.

B & W Resorts, Inc. and Lee Auerbach:

Comments were received which expressed concern with the proposed General Plan Amendment and Rezone and the potential use of the subject parcel for commercial agricultural purposes and the potential future cultivation of cannabis. The comments expressed included the following concerns: 1.) Potential legal access, 2.) Potential future cultivation of cannabis, 3.) Grading and dust, 4.) Groundwater contamination, 5.) Environmental impacts, 6.) Sensitive Sites, and 7.) Wildland fire impacts due to downed trees.

As proposed, the project is a General Plan Land Use Map Amendment to change from Rural (RUR) – 5 to Rural (RUR) – 20 and to change the Zoning from Residential Agricultural (RA) – 5 with Planned Development (PD) to General Agricultural (AG) – 20. The project does not include a proposal to develop the parcel and only seeks to change the existing General Plan Land Use Map and Zoning District Map which is a legislative action. While the project does not include a request to develop the project site at this time, the applicant has stated that they intended to develop the project site for residential uses and potentially for future commercial agricultural uses, including the cultivation of cannabis. If approved, the potential future cultivation of cannabis would be compatible with the resultant General Agricultural Zoning District (AG-20) and would be subject to the site development requirements as outlined in Nevada County Land Use and Development Code, Section L-II 3.30 – Cannabis Cultivation, including the issuance of appropriate Land Use Development entitlements and Building Permits.

SUMMARY:

The applicant is seeking to establish a Rural-20 General Plan Land Use Designation and a General Agricultural (AG-20) Zoning District on the site to convert the existing subject parcel into a parcel that would be utilized for residential uses along with the potential for commercial agricultural uses, including the potential for the cultivation of cannabis. The Planning Department has reviewed the proposed changes and found that no significant physical environmental impacts would occur as a result of this action and that the proposal to go to General Agricultural use would be generally consistent with other similar surrounding uses of the subject parcel.. Therefore, the Planning Department is recommending that the Planning Commission make a recommendation to the Board of Supervisors to approve the General Plan Land Use and Zoning District Map amendments as provided for below.

RECOMMENDATION: Staff recommends the Planning Commission take the following actions:

- I. Recommend that that Board of Supervisors adopt the attached Resolution for the Negative Declaration (EIS21-0002), pursuant to Section 15074 of the California Environmental Quality Act Guidelines, based on the findings contained with the draft Resolution (*Attachment 1*).
- II. Recommend the Board of Supervisors adopt the attached Resolution amending the General Plan Land Use Map Designation of Assessor Parcel Number: 034-160-001 from Rural-5 (RUR-5) to Rural-20 (RUR-20) based on findings contained within the draft Resolution (*Attachment 3*).
- III. Recommend the Board of Supervisors adopt the attached Ordinance approving the Rezone to amend Zoning District Map No. 64 to rezone Assessor Parcel Number: 034-160-001 (from Residential Agricultural - 5 (RA-5) with Planned Development (PD) Combining District to General Agricultural - 20 (AG-20) based on the findings contained within the draft Ordinance (*Attachment 4*).

Respectfully Submitted,

Brian Foss
Director of Planning