



RESOLUTION No. 24-053

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

RESOLUTION OF THE COUNTY OF NEVADA ADOPTING FINDINGS TO DENY THE REZONE AND VARIANCE APPLICATIONS FOR THE IDAHO-MARYLAND MINE – RISE GRASS VALLEY PROJECT

WHEREAS, in November 2019, the applicant Rise Grass Valley, Inc. submitted an application to the Nevada County Planning Department for the proposed Idaho-Maryland Mine – Rise Grass Valley Project (“Project”) to reinitiate underground mining and gold mineralization processing for the Idaho-Maryland Mine over an 80-year permit period with gold mineralization processing and underground exploration and mining proposed to operate 24 hours a day, 7 days a week during full operations; and

WHEREAS, the proposed Project’s surface components would be located within unincorporated western Nevada County on approximately 175.64 acres, consisting of the 119-acre Brunswick Industrial Site (Assessor’s Parcel Numbers [APNs] 006-441-003, -004, -005, -034; and 009-630-037, -039), and an approximately 0.30-acre portion of East Bennett Road for offsite improvements associated with a potable water pipeline easement; and

WHEREAS, the County of Nevada is the Lead Agency pursuant to Public Resources Code section 21067 as it has the principal responsibility to approve and regulate the Project; and

WHEREAS, based on the nature of the proposed Project, including the potential for new significant impacts as a result of the proposed Project, the County determined that an Environmental Impact Report was required for the proposed Project; and

WHEREAS, the County exercised its independent judgment in accordance with Public Resources Code section 20182.1, in retaining the independent consulting firm Raney Planning & Management, Inc., to prepare the Environmental Impact Report (“EIR,” alternatively “FEIR” or “DEIR”), and Raney Planning & Management prepared the Final EIR (Cal. Code Regs., tit. 14, §15362(b)) under the supervision and at the direction of the County’s Planning Director; and

WHEREAS, on July 27, 2020, the County, as the Lead Agency, published a Notice of Preparation (“NOP”) of an EIR for the proposed Project; and

WHEREAS, the NOP provided notice of the County’s determination, and solicited public input on the proposed scope and content of the DEIR for the proposed Project; and

WHEREAS, the County, through Raney Planning & Management, circulated the Draft EIR on January 4, 2022 for a 60-day review period, which was extended to April 4, 2022, for a total public review period of 91 days, by responsible and trustee agencies and the public and the California State Clearinghouse for review and comment, and the County received twelve (12) comment letters from agencies, thirty-two (32) letters from groups, and two-thousand-eight-hundred-twenty-one (2,821) individual comment letters; and

WHEREAS, on March 24, 2022, the Planning Commission held a Special Public Hearing to take public comment on the adequacy of the Draft EIR; and

WHEREAS, the EIR analyzes all of the potential environmental impacts of the proposed Project and found that most would be mitigated to a less-than-significant level with implementation of the recommended Mitigation Measures and Reporting Program (MMRP), with the exception of impacts associated with Aesthetics (Visual Character), Noise (Substantial Temporary Increase in Ambient Noise Levels) and Transportation and Circulation (Significant Impacts to Intersections); and

WHEREAS, within the resource categories of Aesthetics, Noise and Transportation and Circulation, the three areas of impact have been disclosed to be significant and unavoidable, requiring an adoption of Findings of Fact and a Statement of Overriding Consideration by the Board of Supervisors prior to action on the certification of the Final EIR; and

WHEREAS, the Final EIR includes copies of all comments on the Draft EIR, County responses to the comments pursuant to California Code of Regulations, title 14, section 15089, clarifying edits, and the MMRP; and

WHEREAS, on May 10, 2023 and May 11, 2023, the Planning Commission held a Special Meeting and conducted a public hearing on the proposed Project in which the Commission reviewed the Final EIR including the comments received during the public review period, the Project conditions and MMRP, and the Findings of Fact and Statement of Overriding Considerations and recommended by a 5-0 vote that the Board of Supervisors 1.) Not certify the Final environmental Impact Report (EIR 19-0001, SCH# 2020070378) as adequate for the Idaho-Maryland Mine Project including not adopting the California Environmental Quality Act Findings of Fact and not adopting a Statement of Overriding Considerations. 2.) Adopt a Resolution to deny the Rezone (RZN19-0002) for the parcels located at the Brunswick Industrial Site from Light-Industrial with Site Performance Combining District (M1-SP) to Light Industrial with Mineral Extraction Combining District (M1-ME). 3.) Adopt a Resolution to deny the Variance (VAR19-0003) for the construction of several structures up to a height of 165 feet, where forty-five (45) feet is required, pursuant to Nevada County Land Use and Development Code, Section L-II 2.5 -- Industrial Uses, Table L-II 2.5.E). 4.) Take no action on the following Project entitlements: Development Agreement (MIS22-0019), Use Permit with a Reclamation Plan (CUP19-0004); Management Plans (MGT MGT19-0039, MGT19-0040, MGT20-0009, MGT20-0010, MGT20-0011), Boundary Line Adjustment (LLA20-0006), Parcel Map Amendment (AAM21-0002); and

WHEREAS, the Nevada County Board of Supervisors on February 15 and 16, 2024 held a duly noticed public hearing on the proposed Project; and

WHEREAS, the Nevada County Board of Supervisors, after reviewing and considering the recommendations of the Nevada County Planning Commission regarding the proposed Rezone, all information and evidence submitted in favor and against the proposed Rezone, and the complete record before it, has determined that a Rezone is not approved to allow for the Idaho-Maryland Mine Project; and

WHEREAS, the Nevada County Board of Supervisors, after reviewing and considering the recommendations of the Nevada County Planning Commission regarding the proposed Variance, all information and evidence submitted in favor and against the proposed Variance, and the complete record before it, has determined that a Variance is not approved to allow for the Idaho-Maryland Mine Project.

NOW, THEREFORE, BE IT RESOLVED that the Nevada County Board of Supervisors hereby finds and determines as follows; and

BE IT FURTHER RESOLVED that the Board of Supervisors finds that the foregoing recitals are true and correct; and

BE IT FURTHER RESOLVED that the Nevada County Board of Supervisors finds that the individual findings and determinations contained herein are severable and independent, and that should any individual finding or determination be held to be or made invalid by a court decision, statute or rule, or should otherwise be rendered invalid, the remainder of the findings and determinations set forth herein shall continue in full force and effect; and

BE IT FURTHER RESOLVED that the Nevada County Board of Supervisors hereby does not certify the Idaho-Maryland Mine Project Final Environmental Impact Report (EIR19-0001, SCH No. 2020070378) for the Use Permit and Reclamation Plan (CUP19-0004), Rezone (RZN19-0002), Variance (VAR19-0003), Management Plans (MGT19-0039, MGT19-0040, MGT20-0009, MGT20-0010, MGT20-0011, MGT20-0012, MGT20-0013), Boundary Line Adjustment (LLA20-0006) and Development Agreement (MIS22-0019); and Use Permit (U11-008) Reclamation Plan (RP11-001) and Development Agreement; and

BE IT FURTHER RESOLVED that the Board of Supervisors finds that the denial of the Project is statutorily exempt pursuant to Section 15270(a) of the California Environmental Quality Act (CEQA) Guidelines because CEQA does not apply to projects which a public agency rejects or disapproves; and

BE IT FURTHER RESOLVED that pursuant to Land Use and Development Code section L-II 5.9.G, the Board of Supervisors hereby finds and determines that the Rezone (RZN19-0002) of Assessor's Parcel Numbers 006-441-003, -004, -005, -034; and 009-630-037, -039, which are located in the unincorporated area of Nevada County, from Light Industrial with the Site Performance Combining District (M1-SP) to Light Industrial with the Mineral Extraction Combining District (M1-ME) is denied based on the following findings:

A. That the proposed amendment does not further the Goals, Objectives, Policies or Implementation Measure of the General Plan:

1. General Plan Policy: 1.1.1: As outlined in the General Plan, all land in the County is placed into either a Community Region or Rural Region. In this case, most of the Project acreage exists on the Brunswick Industrial Site. As shown on the General Plan Land Use Maps, the Brunswick Industrial Site contains six (6) parcels totaling approximately 119 acres with four (4) of the parcels being located within the Grass Valley Community Region (APN: 006-441-003, 006-441-034, 009-630-037, 009-630-039) and two (2) being located within the Rural Region (APN: 006-441-004 and 006-441-005). Within the Rural Region the two parcels total approximately 51 acres or roughly 43% of the Brunswick Industrial Site, meaning most of the Brunswick Industrial Site is located with the Grass Valley Community Region. For the Centennial Industrial Site, the Project site is located within the Grass Valley Community Region as shown on the General Plan Land Use Map. Therefore, a majority of the Project sites for the proposed Project would be located within the Grass Valley Community Region, which would include all of the proposed buildings that would be located on the Brunswick Industrial Site, while a portion would be located within the Rural Region.

General Plan policies require that a distinct boundary be maintained between Rural and Community Regions, coordination with the City of Grass Valley and zoning consistency with amending the Brunswick Industrial Site to a Mining Extraction Combining District. The primary issue is the buffer between the mining operations and the adjacent land uses, especially residential. Two (2) parcels that form part of the Brunswick Industrial Site exist within the Rural Region, whereas the site's four (4) remaining parcels exist in the Community Region. As proposed, the Project would be located within both the Rural and Community Regions, interrupting the distinct boundary between the Rural and Community Regions as outlined in the General Plan and is therefore not consistent with General Plan Policy 1.1.1.

2. General Plan Policy: 1.1.2: The relevant surrounding land use patterns involve those areas surrounding the southern portion of the Brunswick Industrial Site that exists in the Rural Region. This portion of the proposed Project would be located adjacent to parcels which contain the Estate (EST) General Plan Land Use Designation and are zoned Residential Agricultural (RA). Brunswick Road, which is adjacent to the proposed Project, separates a portion of the proposed from nearby EST-designated parcels. Brunswick Road serves as a well-traveled Minor Arterial roadway that connects State Route 174, and residents of nearby communities, to various amenities located in northwestern Grass Valley. That route flows northward past the subject Brunswick Industrial Site. Additional EST-designated parcels are also located adjacent to the southern boundary of the Project site, several of which themselves abut Brunswick Road. Because the EST designation possesses a "rural character," agricultural operations and natural resource-related uses are appropriate in this region as outlined by Policy 1.2.4.e of the General Plan Land

Use Element. Furthermore, Policy 1.2.4.e provides an example of an acceptable natural resource-related use — timber production. Meanwhile, a smaller portion of the site's southern portion sits adjacent to parcels categorized as Urban Single-Family Residential (USF). The EST and USF designations are analyzed below:

The EST designation is intended for low-density residential development at a minimum lot size of three (3) acres per dwelling unit in areas which are essentially rural in character but are adjacent to Community boundaries or near Community Regions and therefore are more accessible to shopping, employment and services (LUE Policy 1.2.4.e). The EST designation thus stands for what can best be described as a “rural-like” way of living that is, in part, premised upon its proximity to amenities within the Community Region. Thus, given the existence of nearby residential development, the proposed engineered fill pad which would be located on the southern portion of the Brunswick Site alone is probably not enough to render the demarcation line between the Community and Rural Regions broken. In addition, regarding parking, there are automobiles parked at nearby residential units. It is thus improbable that these parked automobiles can represent a rural way of life while the existence of additional parked cars at the Project site would antagonize that rural way of life. The only feasible argument that the proposed Project fails to maintain a line between Community and Rural Regions involves the quantity of cars to be parked at the employee parking lot, along with the timing of those vehicle trips. It should be noted that, given the proximity of Brunswick Road, regular automobile traffic in the area has already been normalized, especially considering the southern connection to a state highway. Additionally, natural resource-related uses are acceptable in Rural Regions. While LUE Policy 1.2.4.e includes timber production as an example of a permissible use, the language of the Policy does not forbid the addition of other uses. A gold mine, and specifically its related facilities, would plausibly serve as an additional applicable use.

Meanwhile, the USF designation is intended for single-family residential uses at densities of up to 4 dwelling units per acre (LUE Policy 1.2.4.c). The proposed Project with three hundred twelve (312) employees slated to work at the mine, twenty-four (24) hours a day, seven (7) days a week, would not be consistent with the “open, rural, lifestyle, pastoral character.”

Thus, the proposed Project would not be consistent with General Plan Policy 1.1.2.

3. General Plan Policy 1.3.2: As proposed, the mining operations would occur 24 hours a day, seven days a week. It is estimated that a maximum of 236 one-way truck trips and an average of 115 one-way truck trips would occur over 80 years. This level of mining and processing activity could be considered inconsistent with the rural character and quality of life of the surrounding Rural Region. Land uses in Rural Regions should provide for buffering from adjacent land uses to minimize incompatibility and should support lower levels of service and through low density and intensity of use. Although the above ground facilities include the required minimum setbacks from adjacent land uses, the intensity of the mining operations is incompatible with the rural character of the surrounding area and are inconsistent with the open, pastoral character of Rural Regions and would therefore be inconsistent with General Plan Policy 1.3.2.

4. General Plan Policy 1.4.2: The Western Nevada County Design Guidelines are applicable to all Development Permits and Use Permits for all public, commercial, industrial, and multi-family projects in Western Nevada County. The proposed structures on the Brunswick Industrial Site have been conceptually designed to generally comply with the standards set forth in the Western Nevada County Design Guidelines. For example, the campus is comprised of buildings of various scales and massing. In addition, the primary parking lot has been setback from the building and is separated by landscaping. The office is the first building one approaches from the parking lot, whereas heavier uses and loading bays face the interior of the campus. The warehouse and office buildings are the most prominent when entering the campus from the parking lot and each has a contrasting wainscot and lowered roof structures with stone clad columns that are intended to reduce the building to a human scale. Landscape trees would be planted at strategic locations to partially screen Project elements when the trees reach maturity; however, the proposed structures and engineered fill pads are substantial in height and vegetation screening would not be sufficient to prevent a substantial degradation in visual character or quality of the sites and their surroundings when viewed from public locations. However, as proposed the applicant's request for a Variance to increase building heights (to a maximum of

165 feet for the Headframe building) where 45 feet is required, pursuant to Nevada County Land Use and Development Code, Section L-II 2.5, and the intensity of the mining and industrial use, is inconsistent with rural character of the area.

5. General Plan Policy: 17.6: The Project as proposed would be a gold mining operation on a site zoned for industrial use, which is consistent with the policy. The mining operations would occur twenty-four (24) hours a day, seven (7) days a week. It is estimated that a maximum of two hundred thirty-six (236) one-way truck trips and an average of one hundred fifteen (115) one-way truck trips would occur over eighty (80) years. This level of mining and processing activity could also be considered inconsistent with the rural character and quality of life of the surrounding area. While the above ground facilities include adequate setbacks from adjacent land uses, and as noted in the discussion outlined in the staff report above in the Central Theme 1 discussion and based on Policy 1.1.2 of the General Plan, the intensity of the mining operations exceed those that are compatible with the rural character of the surrounding area, which has transitioned to semi-rural since the original mining operation concluded. Therefore, the proposed Project is not consistent with Policy 17.6 of the Mineral Management Element currently; and

B. That the proposed amendment will be detrimental to the public interest, health, safety, convenience, or welfare of the County.

As discussed in Chapter 4.1, Aesthetics, of the Draft Environmental Impact Report, while the Centennial and Brunswick Industrial Sites are zoned for industrial development and there are existing industrial land uses in the vicinity of the Project sites, the proposed Project would result in noticeable changes to the existing visual character of the Project sites, as viewed from public vantage points in the Project vicinity. Landscape trees would be planted at strategic locations to partially screen Project elements when the trees reach maturity. However, the proposed structures and engineered fill pads are substantial in height and vegetation screening would not be sufficient to prevent a substantial degradation in visual character or quality of the sites and their surroundings when viewed from public locations. As previously discussed, several of the proposed structures require a building height Variance, subject to review and approval by the County pursuant to Nevada County LUDC Section L-II 5.7 – Variances. Mitigation Measure 4.1-2 requires more dense plantings along the Project frontage. Nonetheless, given the height of proposed structures, they will still be visible from public viewpoints. Therefore, the proposed amendment will be detrimental to the public interest, health, safety, convenience, or welfare of the county; and

C. That the Nevada County Planning Commission, at their Special Meeting of May 10, 2023 & May 11, 2023, after taking public testimony and deliberating on the Project, recommended by a 5-0 vote that the Board of Supervisors adopt this Resolution as required by Nevada County Land Use and Development Code section L-II 5.9.E; and

BE IT FURTHER RESOLVED that pursuant to Land Use and Development Code section L-II 5.7.E, the Board of Supervisors hereby finds and determines that the Variance (VAR19-0003) for Assessor's Parcel Numbers 006-441-003, -004, -005, -034; 009-630-037, -039; 009-550-032, -037, -038, -039, -040; and 009-560-036 that would allow for the construction of several structures up to a height of 165 feet, where 45 feet is required, pursuant to Nevada County Land Use and Development Code section L-II 2.5 – Industrial Uses, Table L-II 2.5.E, be denied based on the following findings:

A. The Variance, if granted would constitute the granting of a special privilege inconsistent with the limitations placed on similarly sized properties along Brunswick Road and within the Light Industrial Zoning District, pursuant to Nevada County Land Use and Development Code section L-II 2.5, which is limited to a maximum height of 45 feet, because the request to allow the construction of building heights at the Brunswick Industrial Site, is based on the proposed use of the subject Project site as a gold mine and not based on the limitations of the physical characteristics of the subject Project site. Specifically, the Variance would apply to the proposed 64-foot-tall Process Plant, the proposed 165-foot-tall headframe for the Brunswick shaft, the proposed 80-foot-tall headframe for the proposed service shaft, and the proposed 50-foot-tall hoist buildings associated with the two mine shafts. The proposed headframe would extend above the top of the existing forest canopy and Project into the skyline. The Brunswick

headframe would be the tallest structure on the site and has a facade that is distinct from the rest. The vertical structure would be clad with a weathered copper, perforated at the top, to blur the lines between the structure and the sky; and

B. There are no special circumstances applicable to the subject Property including size, shape, topography, location or surroundings and because of these circumstances, whereby the strict application of the provisions of this Chapter of the Nevada County Land Use and Development Code would deprive the subject property of privileges enjoyed by other properties in the vicinity and in the same zoning classification. The strict application of the provisions of this Chapter in regard to height would not preclude the reasonable use of the Brunswick Industrial Site as a gold mine or other similar industrial project. The subject Project site is approximately 119 acres in size and has been shown to contain existing gold resources which would be accessible through existing infrastructure. However, while the subject Project site does contain an existing approximately 80-foot-tall concrete silo, which based on the application, was constructed in 1956, the proposed Project would include the construction of a new Headframe structure at 80 feet and 165 feet, two hoist buildings at 50 feet and a processing plant at 64 feet. However, in the processing of the proposed Project, the County has continued to express concern over the size and mass of the proposed industrial use and mining operations, which would occur 24 hours a day, seven days a week, including the height of the proposed Headframe structure. While the above ground facilities would include adequate setbacks from adjacent land uses, the intensity of the mining operations would exceed those that are compatible with the rural character of the surrounding semi-rural area. Furthermore, while it is included in the Applicant's Justification, that approximately 70 years ago, the Idaho-Maryland Gold Mine used a 135-foot headframe and that the planned 165-foot headframe will be used with a friction hoist to safely assist miners going to and from the subsurface mineshafts, it does not appear that alternative designs which would meet the 45-foot height limitations of the Light-Industrial Zoning District have been reviewed.

C. A granting of the requested Variance would, under circumstances and conditions applied in the particular case, adversely affect the public health, safety, or welfare, the integrity and character of the District, and the utility and value of nearby property. In processing of the application, the County expressed concerns over the size and mass of the proposed industrial use and mining operations, which would occur 24 hours a day, seven days a week, including the height of several of the proposed buildings and the Headframe building. This level of mining and processing is inconsistent with the rural character and quality of life of the surrounding area. The Project site is designated as IND on the General Plan Land Use Map and zoned Industrial, and there are abundant types of industrial uses that may occur on the Property. The Industrial District provides areas for the production, repairing, distribution, and warehousing of goods and equipment, along with supporting businesses and services. Uses should provide for buffering from adjacent land uses to minimize incompatibility and should have convenient, controlled access to arterial or major collector roads without passing through residential areas. While the above ground facilities include setbacks from adjacent land uses, the intensity of the proposed mining operations is incompatible with the rural character of the surrounding semi-rural area when compared to other possible less intensive and more compatible uses that are allowed in that zone.

Subsequently in the preparation of the Project EIR, the EIR identified significant and unavoidable impacts to aesthetics, noise and traffic, with impacts related to aesthetics, outlined in the EIR that the proposed Project would result in noticeable changes to the existing visual character of the Project site, as viewed from public vantage points in the Project vicinity due to the height of the proposed buildings. Although landscape trees would be planted to mitigate impacts at strategic locations to partially screen some Project elements, the proposed structures and engineered fill pads are substantial in height such that vegetation screening would not be sufficient to prevent a substantial degradation in visual character or quality of the sites and their surroundings when viewed from public locations.

D. The Variance is not consistent with the Nevada County General Plan, including the allowed uses within the Industrial General Plan land use designation. This level of mining and processing activity could also be considered inconsistent with the rural character and quality of life of the surrounding area. While the Project site is designated as IND on the General Plan Land Use Map and zoned Industrial, and there are many alternative types of industrial development allowed on the site. The Industrial District allows the production, repairing, distribution, and

warehousing of goods and equipment, along with supporting businesses and services. Uses should provide for buffering from adjacent land uses to minimize incompatibility and should have convenient, controlled access to arterial or major collector roads without passing through residential areas. While the above ground facilities for the Project include setbacks from adjacent land uses, the intensity of the mining operations are incompatible with the rural character of the surrounding semi-rural area; and

BE IT FURTHER RESOLVED that the Rezone (RZN19-0003) and Variance (VAR19-0003) to allow for the proposed Idaho-Maryland Mine – Rise Grass Valley Project are hereby denied; and

BE IT FURTHER RESOLVED that the Board of Supervisors takes no action on the following Project entitlements: Development Agreement (MIS22-0019), Use Permit with a Reclamation Plan (CUP19-0004); Management Plans (MGT MGT19-0039, MGT19-0040, MGT20-0009, MGT20-0010, MGT20-0011), Boundary Line Adjustment (LLA20-0006), Parcel Map Amendment (AAM21-0002); and

BE IT FURTHER RESOLVED that Substantial evidence supporting each finding made herein is contained in the record of proceedings on the proposed Project; and

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a special meeting of said Board, held on the 16th day of February 2024, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Edward C. Scofield, Lisa Swarthout, Susan Hoek and Hardy Bullock.

Noes: None.

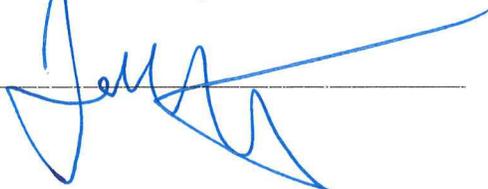
Absent: None.

Abstain: None.

ATTEST:

JEFFREY THORSBY
Clerk of the Board of Supervisors

By: _____



2/16/24

Hardy Bullock, Chair