



PLANNING COMMISSION HEARING OCTOBER 2, 2018

STAFF REPORT

APPLICATION #18-01

NUTE ROAD MINOR LAND DIVISION

REQUEST

To divide two adjacent parcels being 15.6 acres and 52.00 acres (67.6 acres total) into four lots and a Remainder. The size of the new lots will be approximately: Parcel 1 - 16.7 acres, Parcel 2 - 5.7 acres, Parcel 3 - 5.5 acres, Parcel 4 - 15.4 acres and a Remainder of 24.3 acres.

RECOMMENDATION

The Planning Commission adopt Resolution #18-06 approving the Minor Land Division (#18-01) subject to the findings and the recommended conditions of approval and adopt the recommended Mitigated Negative Declaration as per the requirements of the California Environmental Quality Act (CEQA).

SITE DESCRIPTION

Location: 6010\6090 Nute Road

Size: 67.6 acres +/-

General Plan, Zoning, and Existing Land Uses

	GENERAL PLAN	ZONING	CURRENT LAND USE
ON SITE	RESIDENTIAL AGRICULTURE	RA	SINGLE FAMILY RESIDENTIAL\RANGELAND
NORTH	RESIDENTIAL AGRICULTURE	RA	SINGLE FAMILY RESIDENTIAL\RANGELAND
EAST	RESIDENTIAL AGRICULTURE	RA	SINGLE FAMILY RESIDENTIAL
SOUTH	RESIDENTIAL AGRICULTURE	RA	SINGLE FAMILY RESIDENTIAL
WEST	RESIDENTIAL ESTATE	RE	SINGLE FAMILY RESIDENTIAL\RANGELAND

Improvements/Utilities/Service Systems:

Sewer – Septic, **Water** – Wells, **Trash** – Recology, **Fire** – South Placer Fire District

The 67.6 acre project site consists of two parcels, each with a single family home and associated out buildings on each parcel. The site is accessed via Nute Road, a private road which will also serve the new parcels. The majority of the property is undeveloped pasture land, trees along the perimeter with a number of oaks and cottonwoods in the central portion of the site. While most of the project site is fairly level, a butte rises sharply in the northeastern corner of the site. Elevations range from 380 to 480 feet, peaking at the northeast corner, the main distribution point for a series a private irrigation lines.

A man-made pond currently straddles the property line of the two existing parcels to the east. (The proposed division would realign the property lines to have it completely within the northeastern

parcel.) In addition to the pond, there is an intermittent stream located in the southwestern portion of the project site, which flows through a culvert under Nute Road. Natural swales collect and convey runoff toward the on-site intermittent stream.

There are no plans to expand the existing dwelling sites, which will be Parcels 1 and 4, nor to develop the Remainder. However Parcels 2 and 3, currently vacant, are proposed to be sold and developed with single family residences consistent with the RA zoning and approved conditions of approval of this minor land division.

BACKGROUND

Preliminary review found the proposed actions consistent with the Loomis General Plan and Zoning Code in terms of the zoning and parcel size requirements. As there was the potential for adverse environmental impacts as to endangered species, tree removal, cultural resources and possible pesticide contamination due to a former orchard, a Mitigated Negative Declaration (MND) was prepared as per the California Environmental Quality Act (CEQA). The Mitigated Negative Declaration was circulated for review and comment to agencies and the public and no significant adverse comments as to the project's environmental impacts were received.

ISSUES

Biology

Aquatic habitats and surrounding uplands provide suitable aquatic and upland habitat for the western Biological resources within the 67.6-acre project site were characterized during a survey conducted by a qualified biologist on May 31, 2018. The survey consisted of reconnaissance level investigations of the majority of the site, with a focused survey conducted in the area of potential effects (APE), consisting of Parcels 2 and 3. The findings for that survey are summarized here.

A search of the California Natural Diversity Database (CNDDDB), California Native Plant Society (CNPS) RareFind, and USFWS Information for Planning and Conservation (IPaC) databases reported 35 special-status species known to occur in the region surrounding the project site. The habitat requirements of these species were evaluated to determine whether or not they have the potential to occur within the project site. Of these 35 identified species, the project site has features which could support habitat for 13 special-status species; however it should be noted that most of these species do not have the potential to occur within the habitats present within the biological APE (Parcels 2 and 3).

A field assessment was conducted on May 31, 2018, to evaluate the site for the presence or potential for presence of these special-status species and to characterize the habitats within the property and the impacts associated with the Proposed Project. Habitat on the 67.6-acre project site is composed of approximately 0.60 acres of cottonwoods, 1.31 acres of mixed hardwood, 37.80 acres of non-native grassland, 18.49 acres of oak woodland, 0.51 acres of open water habitat, and 8.89 acres of ruderal habitats (See Figure 6 IS\MND). An informal delineation of wetlands and other Waters of the U.S. was conducted during this site visit, and a stream feature was delineated flowing south to north through proposed Parcel 1 and the Remainder Area (as described in Figure 3 of the IS\MND), and a small farm pond was observed on proposed Parcel 4. These two aquatic features are located more than 100 feet from the two proposed new parcels.

The Proposed Project would result in the construction of two single-family homes on Parcels 2 and 3.

Biological site surveys have determined that there are no special-status species or habitats that currently exist in the proposed lots, and the only potential habitat for any special-status species are the tall trees found within Parcels 2 and 3 that may represent nesting habitat for Swainson's hawk or other MBTA species.

The project site could provide foraging opportunities for raptors or migratory birds. The loss of foraging habitat for these raptors would not be a significant impact, because of the relatively small size of the potential impacts. However, construction activities near nesting trees could disrupt raptor and/or migratory bird nesting behavior. Disturbance to raptors or migratory birds during the nesting season could result in the abandonment of a nest, with the consequence that young would be lost. This would be a significant impact.

Implementation of the following mitigation measure would reduce impacts on raptors and migratory birds by requiring surveys for nesting birds if construction starts during the nesting season, and buffering disturbances around the nests if nesting birds are located will reduce the impacts to a **less-than-significant** level.

Mitigation Measures

Prior to the issuance of grading permits for improvements within project site, the following mitigation measures shall be implemented:

- BIO-1** *The project applicant shall retain a qualified biologist to conduct a preconstruction survey for the presence of American Badger within the areas to be disturbed within 14 days prior to the onset of construction activities. The results of the survey shall be summarized in a letter report and submitted to the Town. If burrows or other direct evidence of American Badger are found, then consultation with CDFW shall be initiated to determine appropriate setbacks from badger habitat.*
- BIO-2** *Should construction activities occur during the breeding season (February 15 through August 31), a pre-construction survey for raptor and/or nesting birds protected under the Migratory Bird Treaty Act shall be conducted by a qualified biologist. The preconstruction survey shall take place no more than 14 days prior to initiation of construction. All trees and shrubs within 500 feet of the area of disturbance shall be surveyed, with particular attention to any trees or shrubs that would be removed or directly disturbed. If an active nest of a protected bird is found on site or in the vicinity of off-site improvements at any time, the biologist shall, in consultation with the California Department of Fish and Wildlife (CDFW), determine whether construction work would affect the active nest or disrupt reproductive behavior. Criteria used for this evaluation shall include presence of visual screening between the nest and construction activities, and behavior of adult raptors in response to the surveyors or other ambient human activity. If construction could affect the nest or disrupt reproductive behavior, the biologist shall, in consultation with CDFW, determine an appropriate construction-free buffer zone around the nest to remain in place until the young have fledged or other appropriate protective measures to ensure no take of protected species occurs. The buffer shall be sufficient to ensure that the nesting birds are not disturbed by construction activities to the extent that they might abandon the nest prematurely.*

BIO-4: *A floristic survey will occur before the Town issues building permits and prior to commencement of ground-disturbing activities, and would cover the Parcels 2 and 3 as well as any areas that may be indirectly affected by the Proposed Project. The floristic surveys will follow the protocols described in the CDFW's Protocol for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities. A reference population of *Balsamorhiza macrolepis* will be visited prior to the survey to determine its bloom status in a similar ecosystem and elevation. All species encountered will be identified to the species level to ensure that no other special-status species occur within the site and could be impacted by project-related activities. If any special-status species are found to occur within Parcels 2 and 3, CDFW will be notified prior to issuance of building or grading permits by the Town to determine proper mitigation measures.*

The Project will comply with Chapter 13.58 of the Town Municipal Code, which provides procedures and standards for identifying and protecting wetland resources and for permitting wetland restoration, enhancement, and mitigation projects. Section 13.58.030 requires compliance with federal and state requirements, including obtaining a CWA Section 404 permit, CWA Section 401 permit, and a CFGC Section 1602 permit, as applicable.

Tree Protection

Within Parcel 2, there are 16 oak trees with a diameter of 6 inches or more at breast height, and within Parcel 3 there are 4 additional oak trees with a diameter of 6 inches or more at breast height (refer to the location of oak trees shown on Figure 6 of the IS\MND). The removal of these trees would violate the Town of Loomis' Natural Resources and Open Space policy #5 (Native Tree Protection). The potential loss of and/or damage to protected trees would be a potentially significant impact. The number and spacing of these oak trees within each parcel is low enough to allow for project design to completely avoid these trees. There is ample space for both access driveways and single-family houses within the parcels to not require removal of these trees. The following mitigation measures have been provided to ensure impacts associated with the Proposed Project are less than significant.

Mitigation Measure BIO-3

(a) *Project design shall take into account the presence of oak trees within the parcels and the spatial extent of the tree root systems. Full avoidance of trees shall be required within the project design phase.*

(b) *If the removal of one or more protected trees is required for project implementation, the property owner of the affected parcel shall implement one or a combination of the following measures:*

(i) *Pay an in lieu fee for removal of trees, as calculated according to the Town Tree Ordinance (Section 13.54 of the Municipal Code). The fee shall be paid at the time that Improvement Plans are approved.*

Or

(ii) *Prepare a Tree Planting and Maintenance Plan that provides for the planting of trees on site or at another location within the town where maintenance to ensure survival of the trees will be guaranteed. If trees are to be planted on site, they shall be located in easements that can be protected and reviewed annually for a period of five years.*

Trees planted to meet the provisions of this measure shall be the same species as the tree(s) that are removed. The selected method shall be adequate to ensure the long-term viability of new

plantings at a level that meets or exceeds the level of tree removal, as measured at diameter at breast height.

(c) All construction shall be conducted in accordance with Section 13.54.070 of the Municipal Code with respect to protected trees within 50 feet of any area to be disturbed by the Proposed Project.

A tree permit would be obtained prior to the removal or encroachment into the dripline of any of protected tree in the Project area following the application process described in Section 13.54.080 of the Town's Municipal Code.

Cultural Resources\Tribal Cultural Resources

A cultural resources inventory was conducted for the Project area, consisting of a records search, written contact with Native American groups and related agencies, and onsite fieldwork. The methods and results of the inventory, as well as a description of the ethnographical and historical setting for the proposed Project area and surrounding areas are described in the Initial Study\Mitigated Negative Declaration.

On May 15, 2018, AES completed an archaeological survey of proposed Parcels 2 and 3. Most of the site is composed of grasslands and oak woodland, with smaller areas of mixed hardwood and cottonwood in addition to ruderal/developed areas. At the time of the survey, the property was densely covered with thick grasses and weeds preventing ground surface visibility except in extremely isolated locations such as rodent burrow backdirt. Therefore, the survey consisted of roughly parallel pedestrian transects spaced approximately 30 meters apart. The only resources observed included an old iron water pipe section and a segment of barbed wire fence, both located outside Parcels 2 and 3. No other historical or archaeological resources listed on or eligible for the California Register of Historical Resources, or that meet other criteria of significance under CEQA Section 15064.5, were identified within the proposed Project area.

However, it is possible that previously unknown historical, archaeological, and/or paleontological resources could be discovered during grading and excavation work associated with new construction. Potential impacts to previously undiscovered historic, archaeological, and/or paleontological resources would be avoided through implementation of the proposed Mitigation Measures

Although the Proposed Project would not affect any known archaeological or paleontological resources or human remains, the potential exists for such finds to be located below the surface, where they would not be discovered until project construction. If such resources are present, they could be damaged during grading and/or excavation. This would be a potentially significant impact.

The Town of Loomis informed the United Auburn Indian Community (UAIC) of the Project and requested input from UAIC on any known tribal cultural resources. In a reply letter dated September 12, 2018, the UAIC requested consultation as well as scheduling a site visit. A mitigation measure has been added that site visit with Loomis staff, UAIC representatives, and a professional archaeologist provided by the applicants be conducted. Based on this site visit a letter from the tribe showing concurrence as per AB52 of the building sites be provided prior to recordation of the final map.

With implementation of **Mitigation Measures CR-1** through **CR-4**, potential impacts to archeological resources, paleontological resources, or human remains in the case of an inadvertent discovery, would

be reduced to **less than significant** by ensuring that buried resources, if present, would be identified, evaluated, and treated appropriately.

Mitigation Measures

CR-1 *If any cultural resources, such as structural features, unusual amounts of bone or shell artifacts, or architectural remains, are encountered during any construction activities, the project applicant shall implement measures deemed necessary and feasible to avoid or minimize significant effects on the cultural resources including the following:*

- *All work within 50 feet of the find shall be halted until a professional archaeologist can evaluate the significance of the find in accordance with CEQA. If any find is determined to be significant by the archaeologist, then representatives of the Town and project applicant shall meet with the archaeologist to determine the appropriate course of action. If necessary, a Treatment Plan shall be prepared, outlining recovery of the resource, analysis, and reporting of the find. The Treatment Plan shall be submitted to the Town for review and approval prior to resuming construction.*
- *All significant cultural materials recovered shall be subject to scientific analysis, professional curation, and a report prepared by the professional archaeologist in accordance with current professional standards. All mitigation shall be completed prior to the resumption of construction.*

CR-2 *If vertebrate fossils are discovered during project activities, all work shall cease within 100 feet of the find until a qualified professional paleontologist can assess the nature and importance of the find and recommend appropriate treatment. The Town and project applicant would also be notified of the discovery and the qualified professional paleontologist's opinion within 48 hours of the initial finding. Treatment may include preparation and recovery of fossil materials, so that they can be housed in an appropriate museum or university collection, and also may include preparation of a report for publication describing the finds. Project activities shall not resume until after the qualified professional paleontologist has given clearance and evidence of such clearance has been submitted to the Town.*

CR-3 *If human remains are encountered during construction activities, work within 100 feet of the find shall halt immediately and the County Coroner should be notified in accordance with California Health and Safety Code Section 7050.5. If the remains are of Native American origin, the Coroner must, in accordance with PRC Section 5097, notify the NAHC within 24 hours of this identification. In turn, the NAHC shall identify a Most Likely Descendent, who shall work with the Town and project applicant to develop a plan for avoidance or removal and disposition of the remains. The project applicant shall implement approved mitigation, to be verified by the Local Agency, before resuming ground-disturbing activities within 100 feet of where the remains were discovered.*

CR-4: *The Town shall conduct a site visit with UAIC prior to issuance of building permits. Measures determined in coordination with UAIC following the site visit, which could include the presence of a tribal monitor during initial ground disturbing activities and avoidance and preservation of resources (should any be identified), will be incorporated into conditions of building permits.*

Drainage

Construction of the proposed Project would involve site grading and earthmoving activities, which would expose soils at the site and could result in soil erosion. However, the area of disturbance for the access road, utilities, and home building is small. Soil erosion and topsoil loss would be limited by implementing standard construction practices and best management practices (BMPs) for erosion and

sediment control, consistent with the West Placer Storm Water Quality Design Manual (Placer County 2018). Because erosion control and stormwater pollution prevention measures would be implemented, the proposed Project has limited potential to result in substantial soil erosion or loss of topsoil.

Hazardous Materials

No properties in the vicinity of the project site are on the Cortese List. Federal, State, and regional databases were searched for records of hazards on or within a mile of the project site. Searched sites include: the SWRCB's GeoTracker, the California Department of Toxic Substances Control's (DTSC) Cortese List and EnviroStor, and the USEPA's FRS Query Page. The only site record within a mile radius was for a property located approximately 600 feet west of the project site, with remedial action completed as of June 15, 2005 (DTSC, 2018a; DTSC, 2018b, SWRCB, 2015, USEPA, 2015). Historic uses of the project site included grazing or agricultural uses, more specifically orchards which could have utilized pesticides or other hazardous materials that may still be present in project site soils.

Exposure to contaminated soils, if present, would be a significant impact. Implementation of the following mitigation measure would reduce the potential risk of exposure to a less-than significant level by ensuring that contaminated groundwater or soils, if present, are identified and remediated promptly.

Mitigation Measure

HM-1 *In the event previously unidentified hazardous materials contamination is discovered or believed to be present, work shall stop immediately and the site shall be investigated by a qualified professional. If contaminated, the area shall be remediated by a qualified professional, in consultation with Placer County Environmental Health Division, the Regional Water Quality Control Board and/or the California Department of Toxics Substances Control, as appropriate. Work shall not resume until potential hazards have been identified and managed.*

HM-2 *Prior to recordation of the Final Map and/or any ground disturbing activities (including but not limited to grading or import of fill) of the areas historically used as orchards, a Phase II Environmental Assessment shall be conducted. The study shall be conducted in accordance with the California Department of Toxic Substances Control (DTSC) Interim Guidance for Sampling Agricultural Properties (Third Revision), dated August 7, 2008. A workplan to conduct a Phase II site assessment shall be submitted to Placer County Health and Human Services (PCHHS) for review and approval prior to field activities. The workplan shall also include soil sampling around any historic structures. Analytical results from soil samples obtained during Phase II screening level investigations shall be compared to the following standards in order to evaluate possible adverse impacts to human health: Preliminary Remediation Goals (PRGs) for residential usage, established by the U.S. Environmental Protection Agency Region IX; and California Human Health Screening Levels (CHHSLs) established by the California Environmental Protection Agency. If collected samples show low or non-detect results for the constituents analyzed, no further mitigation is necessary. If exceedances are encountered, contamination removal activities shall be implemented in coordination with PCHHS and DTSC. Remedial activities could include but are not limited to excavating soil, lawfully disposing of soil, and retesting onsite soils to ensure native soils are below action levels*

Hydrology

The Proposed Project would result in new impervious surfaces from the construction of residences on

proposed Parcels 2 and 3. This will result in an increase in stormwater runoff, which could alter downstream flood conditions and/or release urban contaminants into surface waters. Part of the Building Permit application with the Town of Loomis includes a Drainage Development Fee and a Dry Creek Watershed Drainage Improvement Fee, which ensure impacts from new developments do not cause impacts to local drainages or to the Dry Creek Watershed. These fees provide funding for improvement projects and maintenance of local water quality and runoff. Further, the new residences would comply with the Town's Municipal Code for residential developments, which ensure proper drainage design through approval requirements from the Town's Public Works Department. This impact would be **less than significant**.

Traffic

The proposed Project does not conflict with the Circulation Element of the Town General Plan or any other applicable plan, ordinance, or policy. Development of up to three new single family residences in the Project area would not result in significant long-term increases in vehicle trips in the area and is not expected to cause an adverse change in the level of service at any roads or intersections in the proposed Project vicinity. Similarly, construction activities would be expected to result in a negligible temporary increase in vehicle trips to the Project area during construction.

The applicants will be required to provide a non-exclusive easement to allow all of the existing, proposed, and future lots access to Barton Road via Nute Road which is private. In addition a binding road maintenance agreement shall be prepared and recorded to the satisfaction of the Town Engineer binding all existing and future landowners. The width and construction of Nute road shall be to the satisfaction of the Loomis Town Engineer and the South Placer Fire Protection District.

Utilities

Public Water and Sewer Service Requirements

Policy 4 of the Public Services Element of the Loomis General Plan states public water and sewer is required for any proposed (new) dwelling unit within 300 feet of such service, and for all proposed development in a nonresidential land use designation. Proposed Parcels 2 and 3 are vacant and are proposed for new single family development. Both, are more than 300 feet from existing water and sewer service along Barton Road. Therefore they are **not** required to be served by public water or sewer. Parcels 1 and 4 have existing dwellings with no new dwelling proposed, and both are more than 300 feet from public water or sewer. Therefore neither need use public water or sewer. Development of the Remainder will be subject to the Town's public utility requirements. These private wells will require approval and permits from the Placer County Environmental Health Department and will be constructed in accordance with the Placer County Well Ordinance

Irrigation Water

The source of the non-potable water is a 6-inch water line that extends from a distribution box at the existing Placer County Water Agency (PCWA) canal in the adjacent Sierra de Montserrat subdivision located south and east of the project site. The 6-inch water line is privately owned by the current property owners of the project site. Several nearby residential properties also purchase raw water from PCWA through lateral connections to the 6-inch line; however, before selling water to these adjacent properties, PCWA required an authorization letter from the owners of the project site. The overall amount of raw water that can be drawn from the private line is limited by PCWA established through agreements with the connected property owners for the purchase of raw water (PCWA, 2018). Parcels 1

and 4 will continue non-potable water service per the existing system and new ¾ inch raw water lines will be provided for Parcels 2 and 3 from the existing 6-inch service line. PCWA has informally indicated that it would sell up to ½ miners inch to each of the new residential parcels pending receipt of authorization letters from each of the property owners that currently have agreements with PCWA for purchase of raw water through the distribution box (PCWA, 2018). The locations of existing and proposed private raw water lines (for Parcels 2 and 3) are shown on Figure 3 of the IS\MND. Easements for the existing raw water lines will be established as part of the final parcel map process to ensure continued service for those currently being served.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Pursuant to CEQA Guidelines Section 15070 Decision to Prepare a Negative or Mitigated Negative Declaration the Town of Loomis prepared an *Initial Study Mitigated Negative Declaration (IS/MND)*. (Attachment 3) Mitigation measures were identified to reduce potential impacts to a level of less than significant in the *IS/MND Mitigation Monitoring Report Plan (MMRP)* (Attachment 6) and included as required Conditions of Approval for this project.

A Notice of Intent to Adopt a Negative Declaration was posted and mailed to adjacent property owners and Public Agencies for the 30-day public review and comment beginning on August 20, 2018 and concluding September 20, 2018.

Negative Declarations do not require a formal response to comments as do environmental impact reports. However, the Public Comments (Attachment #9) were reviewed and the town prepared a *Response to Comments Memorandum* (Attachment #10) providing a summary of the pertinent comments and any town responses.

A **Notice of Determination** will be filed with the Placer County Clerk upon approval of the project.

RECOMMENDATION

The Planning Commission adopt Resolution #18-06 approving the Minor Land Division (#18-01) subject to the findings and the recommended conditions of approval, and adopt the recommended Mitigated Negative Declaration as per the requirements of the California Environmental Quality Act (CEQA).

ATTACHMENTS

1. Draft Resolution #18-06
 - Exhibit A: Recommended Findings
 - Exhibit B: Recommended Conditions of Approval
2. Project Vicinity Map
3. Project Exhibit Maps
 - Minor Land Division Map #18-01 11x17 and 8-1/2x11
4. Aerial Photo\Existing Lot Lines
5. USGS Map
6. Oak Woodlands

California Environmental Quality Act (CEQA) Documents

7. Nute Road Initial Study\Mitigated Negative Declaration (IS\MND)*
8. Public Comments
 - Agency Comments
 - California Department of Fish and Wildlife

United Auburn Indian Community
South Placer Fire Protection District
Central Valley Regional Water Quality Control Board
Placer County Environmental Health
South Placer Municipal district

Citizen Comments -None

9. Response to Comments Memorandum
10. Mitigation Monitoring and Report Program (MMRP)

** Previously Distributed to Planning Commission Members. Additional copies available at Town Hall or the Loomis Website: www.Loomis.ca.gov*

NOTE: Notice published in the Loomis News on September 21, 2018 and mailed to adjacent property owners within 300 feet on September 21, 2018.