COUNTY OF PLACER
Community Development/Resource Agency

Michael J. Johnson, AICP
Agency Director

PLANNING SERVICES DIVISION

EJ Ivaldi, Deputy Director

HEARING DATE: December 11, 2014
ITEM NO.: 2
TIME: 10:15 am

TO: Placer County Planning Commission

FROM: Development Review Committee

DATE: December 11, 2014

SUBJECT: **MILE RESIDENTIAL CARE HOME**
THIRD PARTY APPEAL OF THE ZONING ADMINISTRATOR'S APPROVAL OF A MINOR USE PERMIT (PMPB 20120102)
MITIGATED NEGATIVE DECLARATION
SUPERVISORIAL DISTRICT 3 (HOLMES)

GENERAL/COMMUNITY PLAN: Horseshoe Bar / Penryn Community Plan

COMMUNITY PLAN DESIGNATION: Rural Estate 4.6-20 acre minimum

ZONING: RA-B-X 4.6 ac. min. (Residential-Agricultural, combining minimum Building Site designation of 4.6 acres)

ASSESSOR'S PARCEL NUMBER: 043-164-062-000

STAFF PLANNER: Melanie Jackson, Associate Planner

LOCATION: 7968 Rasmussen Road, Loomis

PROJECT APPLICANT: Petre Mile

APPELLANT: Dena DeLapp

PROPOSAL:
The applicant requested approval of a Minor Use Permit to allow for a residential care facility for up to twelve clients on the subject property and a Variance to allow for a setback of 41 feet from the front property line (where 50 feet is normally required) to bring the existing guest house into compliance with County Code. The Zoning Administrator approved the Minor Use Permit and the Variance on September 18, 2014.

On September 29, 2014, an appeal (Attachment A) of the Zoning Administrator's approval of a Minor Use Permit for the Mile Residential Care Facility was filed by Dena DeLapp. The Zoning Administrator's decision to approve the setback variance was not appealed.

CEQA COMPLIANCE:
A Mitigated Negative Declaration (Attachment E) has been prepared for the project and has been finalized pursuant to CEQA. The Mitigated Negative Declaration and Mitigation Monitoring Program are attached and must be found to be adequate by the decision-making body to satisfy the requirements of CEQA, and a recommended finding for this purpose can be found at the end of this staff report.

PUBLIC NOTICES AND REFERRAL FOR COMMENTS:
Public notices were mailed to property owners of record within 300 feet of the project site. Community Development Resource Agency staff and the Departments of Public Works, Environmental Health, Air Pollution Control District and Horseshoe Bar-Penryn Municipal Advisory Council (MAC) were transmitted copies of the legal notice for review and comment. All County comments have been addressed and conditions have been incorporated into the staff report.

PROJECT DESCRIPTION:
The project being appealed is a Minor Use Permit to allow for the operation of a residential care facility located at 7968 Rasmussen Road, in the Loomis area. The residential care facility would include the use of two existing structures consisting of 1,187 square feet and 3,260 square feet that would accommodate up to six residents each, for a total of twelve.

SITE CHARACTERISTICS:
The property slopes downward towards the north and contains minimal tree coverage, landscaped areas and grasslands. The property is developed with an approximately 5,690 square-foot residence, an approximately 1,187 square-foot secondary residence, an approximately 3,260 square-foot guest house, a swimming pool and a concrete driveway and parking areas.

The property is zoned RA-B-X 4.6 ac. min. (Residential Agricultural, combining building site minimum size of 4.6 acre) and is designated Rural Estate 4.6-20 acre minimum by the Horseshoe Bar/Penryn Community Plan. The surrounding parcels are also zoned RA-B-X 4.6 ac. min., range in size from 1.5 to 10 acres and are developed with single-family residences and minor agricultural uses.

EXISTING LAND USE AND ZONING:

Location	Zoning	Horseshoe Bar/Penryn Community Plan Land Use Designations	Existing Conditions and Improvements
Site	RA-B-X 4.6 ac. min. (Residential-Agricultural, combining Building Site designation of 4.6 acre minimum lot area)	Rural Estate, 4.6 – 20 acre minimum	Single-family residential; Residential care facility
North	RA-B-X 4.6 ac. min. (Residential-Agricultural, combining Building Site designation of 4.6 acre minimum lot area)	Rural Estate, 4.6 – 20 acre minimum	Single-family residential
South	RA-B-X 4.6 ac. min. (Residential-Agricultural, combining Building Site designation of 4.6 acre minimum lot area)	Rural Estate, 4.6 – 20 acre minimum	Single-family residential
East	RA-B-X 4.6 ac. min. (Residential-Agricultural, combining Building Site designation of 4.6 acre minimum lot area)	Rural Estate, 4.6 – 20 acre minimum; Riparian Drainage	Single-family residential

2

West	RA-B-X 4.6 ac. min. (Residential-Agricultural, combining Building Site designation of 4.6 acre minimum lot area)	Rural Estate, 4.6 – 20 acre minimum	Single-family residential

BACKGROUND:

Zoning Administrator Hearing (August 14, 2012)

On August 14, 2012, the Minor Use Permit and Variance for the Mile Residential Care Home was considered by the Zoning Administrator as categorically exempt from CEQA. After hearing comments from staff, the public and the applicant, the Zoning Administrator took action to continue the item to an open date pending successful completion of environmental review.

Zoning Administrator Hearing (September 18, 2014)

On September 18, 2014, the Minor Use Permit and Variance for the Mile Residential Care Home was again considered by the Zoning Administrator. After hearing comments from the Development Review Committee, the applicant and the public, the Zoning Administrator took action to adopt the Mitigated Negative Declaration and Mitigation Monitoring Program prepared for the project and approved the Minor Use Permit and the Variance.

An Appeal of the Zoning Administrator's decision was filed by Dena DeLapp on September 29, 2014.

LETTER OF APPEAL:

On September 29, 2014, an appeal (Attachment A) of the Zoning Administrator's approval of a Minor Use Permit for the Mile Residential Care Facility was filed by Dena DeLapp. The Zoning Administrator's decision to approve the setback variance was not appealed.

RESPONSE TO APPEAL LETTER

To ensure staff has addressed all assertions set forth in the appeal letter, a specific response to each issue is listed below.

1. **The appellant asserts that the Minor Use Permit conflicts with the Placer County General Plan, the Horseshoe Bar/Penryn Community Plan, and the Placer County Zoning Ordinance. The appellant also asserts that the Minor Use Permit does not satisfy appropriate approval procedures.**

   The Placer County General Plan and the Horseshoe Bar/Penryn Community Plan designate the subject property as Rural Estate 4.6 to 20 acre minimum, which allows for uses that are consistent with the nature of rural residential areas within Placer County.

   Consistent with the general and community plan designations, the property is zoned Residential Agricultural, combining a Building Site minimum of 4.6 acres (RA-B-X 4.6 acre minimum). The Residential Agricultural zone district allows for residential care homes of 7 or more clients with the approval of a Minor Use Permit. Consequently, this application is consistent with the requirements of the Residential-Agricultural zone district that allows for Residential Care Facilities of this size and is consistent with policies of the Placer County General Plan and the Horseshoe Bar/Penryn Community Plan.

2. **The appellant asserts that, because the residential care facility would be inconsistent with the Residential Agricultural zone district, approval of the residential care facility would be a "reasonable accommodation". The appellant cites the United States Social Security Administration Procedures for Providing Reasonable Accommodation for Persons with Disabilities..."Local governments can deny a request for reasonable accommodation if it would fundamentally alter the nature of the ordinance, neighborhood, or local zoning**

procedures; undermine the legitimate purposes and effects of existing zoning regulations; or impose undue financial and administrative burdens on the municipality."

The proposed residential care facility for up to twelve clients is consistent with the Residential Agricultural zone district as an allowed use, with the approval of a Minor Use Permit. The intent of a reasonable accommodation, per Section 17.56.185(A) of the Placer County Zoning Ordinance, is "to provide reasonable accommodation for exemptions in the application of its zoning laws and rules, policies, practices and procedures for the siting, development and use of housing, as well as other related residential services and facilities, to persons with disabilities seeking fair access to housing". The fact that the project is proposed as a residential care facility, a reasonable accommodation would not be applicable. Therefore, an exemption to the application of zoning laws and rules, policies, practices and procedures for the siting, development and use of housing is not necessary because Chapter 17 of the Placer County Zoning Ordinance does not prohibit the residential care home land use in the Residential Agricultural zone district.

3. **The appellant asserts that the approval of the residential care facility would result in a change to the rural nature of the vicinity of the project, and would negatively affect the character of the surrounding neighborhood and would affect families, agriculture and wildlife.**

The proposed project would have minimal effect on the surrounding neighborhood because the residential nature of the project is consistent with other Residential Agricultural properties in the area. The subject property contains a single-family residence, guest house and a secondary residence. The single-family residence houses a single family and the secondary residence is currently operated as a residential care facility with six or fewer clients, consistent with Chapter 17 of the Placer County Zoning Code. The guest house is currently utilized to accommodate guests on the property.

The Mitigated Negative Declaration (MND) prepared for the project evaluated the residential care home use for consistency with the surrounding community. The MND determined that, because the residential care facility is considered a residential use and is located within a residential zone district, it would not result in a change to the rural nature of the neighboring properties or surrounding communities. In addition, the MND determined that, due to the distance between the subject property and adjacent agriculture, no agricultural uses within the project vicinity would be impacted.

4. **The appellant asserts that approval of the minor use permit conflicts with state law because the residential care facility does not meet the definition of a single-family residence (California Health and Safety Code 1569.85) and may result in "overconcentration" (California Health and Safety Code 1250.5).**

The California Health and Safety Code 1569.85 states that a care facility serving six or fewer clients shall be considered a single-family residence for the purposes of local government regulation. Section 1569.85 is intended to allow the smaller facilities to establish in existing residential areas and to be treated from the zoning and building perspective as single-family residences. The code does not preclude the County's consideration of Residential Care Facilities of 7 or more clients with discretionary approval. Nor does this code section imply that if a residential care facility is in excess of six clients that it is not considered "residential" and therefore inconsistent with the underlying zoning of this property. As discussed in staff's response to Appeal point 2, the proposed residential care facility for up to twelve clients is an allowed use in the Residential Agricultural zone district with the approval of a Minor Use Permit. Therefore in the context of this appeal, section 1569.85 is not relevant. California Health and Safety Code 1267.9 (a) is designed to prevent overconcentration of Residential Care Facilities in residential neighborhoods. The code states that Residential Care Facilities must be at least 300 feet away from any other care facility. There are no residential care facilities within 300 feet of the subject property.

5. **The appellant asserts that improvements required as a condition of approval of the project conflict with the requirements of the Loomis Fire Protection District.**

The project site is accessed from Rasmussen Road. Consequently, the project is conditioned to install the following improvements:

- Construct a residential driveway connection to Rasmussen Road to a Plate R-17, LDM (Minor) standard.
- Construct/reconstruct the road connection of Rasmussen Road onto Val Verde Road to a Plate R-17 (Minor), LDM standard.
- Construct one-half of a 28-foot road section where the project fronts Rasmussen Road.
- Construct a minimum of two roadway turnouts adjacent to the County maintained road (Rasmussen Road).
- Construct a concrete pad for the placement of a new 6,000 gallon water storage tank.

Loomis Fire Protection District is the serving fire district for the subject property and was sent a request for comment with the initial submittal of the environmental questionnaire. David Wheeler, Fire Chief for the Loomis Protection Fire District, submitted a comment letter (Attachment H) requiring that road improvements for the project provide a turn-out for vehicles in front of the property. During the environmental review process, the applicant submitted a "Turnout Plan" that showed locations and dimensions of proposed turnouts on Rasmussen Road at three different locations, within the public right of way. Having reviewed the turnout plan, Loomis Fire Protection District sent an e-mail on April 8, 2014, stating the fire district was satisfied with the project as proposed (Attachment G). Therefore, the proposed project improvements are consistent with the requirements of the Loomis Fire Protection District.

RECOMMENDATION:

As detailed in this report, staff could find no merit in any of the appeal issues raised by the appellant. It is staff's recommendation that the Planning Commission upholds the decision of the Zoning Administrator and takes the following actions based on the findings contained in this staff report:

1. Deny the third-party appeal filed by Dena DeLapp.
2. Adopt the Mitigated Negative Declaration (Attachment E) and Mitigation Monitoring Program (Attachment F) that has been prepared for the project and has been finalized pursuant to CEQA.
3. Uphold the Zoning Administrator's Decision to approve a Minor Use Permit to allow for the operation of a residential care facility on the subject property, subject to the attached Conditions of Approval (Attachment B).

FINDINGS:

CEQA:

1. A Mitigated Negative Declaration has been prepared for the Mile Residential Care Home project as required by law. With the incorporation of all mitigated measures, the project will not cause any significant adverse impacts. Mitigation measures include but are not limited to mitigation for air quality, biological resources, geology and soils, fire protection and transportation and traffic.

2. There is no substantial evidence in the record as a whole that the project as revised and mitigated may have a significant effect in the environment.

3. The Mitigated Negative Declaration as adopted for the project reflects the independent judgment and analysis of Placer County, which has exercised overall control and direction of its preparation.

4. The mitigation monitoring program prepared for the project is approved and adopted.

5. The custodian of records for the project is the Placer County Planning Director, 3091 County Center Drive, Suite 140, Auburn CA 95603.

Minor Use Permit:

1. The proposed use is consistent with all applicable provisions of Placer County Code, Chapter 17, and any applicable provisions of other chapters in this code. As stated in Section 17.44.010(B)[Residential Agricultural; Allowable Land Uses, Permit Requirements and Minimum Lot Area], "Residential care homes, 7 or more clients" are an allowed use within the Residential-Agricultural zone district with the approval of a Minor Use Permit.

2. The proposed use is consistent with applicable policies and requirements of the Placer County General Plan and Horseshoe Bar Penryn Community Plan.

3. The establishment of the proposed use will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, comfort and general welfare of people residing or working in the neighborhood of the proposed use, nor will it be detrimental or injurious to property or improvements in the neighborhood or to the general welfare of the County, provided that all of the recommended Conditions of Approval are adopted for the project. The operation of a residential care home with up to twelve residents on a five-acre residential property located within the Residential Agricultural zone district will not be detrimental to other properties within the vicinity of the project.

4. The proposed use will be consistent with the character of the immediate neighborhood and will not be contrary to its orderly development because the project is considered a residential use, is allowed in the Residential Agricultural zone district with approval of a Minor Use Permit, and is located within an area that is predominantly zoned Residential Agricultural.

5. The proposed use will not generate a volume of traffic beyond the design capacity of all roads providing access to the parcel. All area roadway segments and intersections will continue to operate within acceptable level of service standards.

Respectfully submitted,

Melanie Jackson, Associate Planner

ATTACHMENTS:

Attachment A - Appeal
Attachment B - Conditions of Approval
Attachment C - Vicinity Map
Attachment D - Site Plan
Attachment E - Mitigated Negative Declaration
Attachment F - Mitigation Monitoring Program
Attachment G – Letter dated May 21, 2012 from Loomis Fire Protection District
Attachment H – E-mail dated April 8, 2014 from Loomis Fire Protection District

cc:
Petre Mile, Applicant
Dena DeLapp, Appellant
Karin Schwab, County Counsel
Michael Johnson, CDRA Director
EJ Ivaldi, Deputy Director
Sharon Boswell, Engineering and Surveying Division
Laura Rath, Environmental Health Services
Andy Fisher, Parks Department

o/plus/pln/plng comm/pc staff report format 2014.doc