



NEVADA COUNTY PLANNING COMMISSION

STAFF REPORT

APPLICANT/OWNER: Rise Grass Valley, Inc. / Benjamin Mossman

REPRESENTATIVE: Braiden Chadwick - Mitchell Chadwick, LLP.

HEARING DATE: May 10, 2023 & May 11, 2023 (if necessary)

FILE NO: PLN19-0176; EIR19-0001; CUP19-0004; RZN19-0002; VAR19-0003; MGT19-0039; MGT19-0040; MGT20-0009; MGT20-0010; MGT20-0011; MGT20-0012; MGT20-0013; LLA20-0006; AAM21-0002; MIS22-0019.

PROJECT:

The proposed project would 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. Following completion of mining and processing activities, the subject project sites would be reclaimed to open space and land suitable for proposed future development of industrial uses, subject to additional environmental review and permitting. Generally, the proposed project would include the following components:

- Dewatering the existing underground mine workings (approximately 6 months);
- Underground mining at a depth of 500 feet or more within defined areas underlying the mineral rights properties (80 years);
- Construction (approximately 18 months) and operation (80 years) of aboveground processing and water treatment facilities at the Brunswick Industrial Site;
- Engineered fill placement for potential future industrial pad development at the Centennial (approximately 5 years) and the Brunswick (approximately 6 years) Industrial Sites;
- Installation of a potable water pipeline along East Bennett Road for residential potable water supply (approximately 4 months); and
- Reclamation of the project sites in accordance with a proposed Reclamation Plan (upon completion of the 80-year mining).

The aboveground facilities would be located within an approximately 29-acre industrial area on the existing approximately 119-acre Brunswick Industrial Site that would include but not be limited to, a headframe building around the existing concrete silo used to hoist rock from the Brunswick shaft; covered conveyor system used to transport, a) barren rock to a truck hauling area within an adjacent enclosed building, and b) gold concentrate to the processing plant; a processing plant to grind rock and recover gold minerals through various processes; and other appurtenant structures such as office and warehouse space. An above-ground water treatment plant would also be built at the Brunswick Industrial Site to treat groundwater associated within initial and ongoing

(“maintenance”) dewatering of the underground mine workings. A new aboveground pipe would convey treated water from the water treatment plant along an existing dirt road to the planned discharge point at South Fork Wolf Creek. The pipe and discharge point would be located entirely within the property boundaries of the Brunswick Industrial Site.

Engineered fill generated by the proposed mining activities would be placed on approximately 31 acres of the Brunswick Industrial Site to create a level pad of approximately 21 acres for potential future industrial use. In total, up to approximately 60 acres of the 119-acre site could be subject to surface disturbance and/or development for the aboveground facilities and fill placement. The remaining 59 acres would remain undeveloped and would not be subject to surface disturbance or infrastructure improvements.

Engineered fill would also be placed on the Centennial Industrial Site (approximately 1.5 miles from the Brunswick Industrial Site), provided that the separate DTSC cleanup project has been approved and completed on the Centennial Industrial Site. In that case, engineered fill would be transported by truck from the Brunswick Industrial Site and placed on approximately 44 acres of the Centennial Industrial Site to create approximately 37 acres for potential future industrial use. The remaining approximately 12 acres would remain as a private driveway for site access and open space. The open space area would include Wolf Creek, a 100-foot setback for riparian area on Wolf Creek, and an undisturbed area providing protection for identified special-status plant species.

After full placement of fill at the Centennial and Brunswick Industrial Sites to complete the pad design elevations expected to span approximately 11 years, the need for hauling of engineered fill would continue due to ongoing mining over the Use Permit term of 80 years, and thus, hauling would shift entirely to local and regional markets for sale as construction aggregate and fill. If the separate DTSC cleanup project is not approved by DTSC and completed within the term of the Idaho Maryland Mine Project Use Permit, engineered fill would be placed on the Brunswick site, but not the Centennial site, and the remainder would be hauled to local and regional markets.

Prior to dewatering of the existing mine, a buried potable water pipeline would be constructed as part of the proposed project to provide water to residences along a portion of East Bennett Road. Construction would take approximately four months. The pipeline would extend an existing Nevada Irrigation District (NID) potable water pipeline along an approximately 1.25-mile segment of East Bennett Road to provide potable water service to residential properties currently on wells that may be affected by the project’s dewatering of the mine. NID would be the water supplier for the potable water service.

PROJECT LOCATION:

The proposed project’s surface components would be located within unincorporated western Nevada County on approximately 175.64 acres, consisting of the Brunswick Industrial Site, the Centennial Industrial Site, and an approximately 0.30-acre portion of East Bennett Road for off-site improvements associated with a potable water pipeline easement. The proposed project would also involve underground mining within a defined portion of an approximately 2,585-acre mineral rights boundary owned by the project applicant. It should be noted that underground mining would

not occur within the entire area of mineral rights and would be limited to an approximately 1,415-acre portion of the underground mineral rights boundary as shown in Attachment 1 and as analyzed in the Draft Environmental Impact Report (DEIR). The potable water pipeline easement would be located along East Bennett Road and would be contained within the existing right-of-way.

The Centennial and Brunswick Industrial Sites are located within unincorporated Western Nevada County and are owned by Rise Grass Valley (applicant). The 119-acre Brunswick Industrial Site is located southwest of the intersection of East Bennett Road and Brunswick Road and is accessible from Brunswick Road or East Bennett Road. The 56.41-acre Centennial Industrial Site is located southwest of the intersection of Idaho Maryland Road and Centennial Drive, approximately 1.5 miles from the Brunswick Industrial Site.

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

PROJECT PLANNER: Matt Kelley - Senior Planner, Nevada County
Cindy Gnos – Senior Vice President, Raney Planning & Management
Nick Pappani – Vice President, Raney Planning & Management

Zoning:	Light Industrial (M1) and M1-Site Performance Combining District (M1-SP)
General Plan:	Industrial (IND)
Water:	Nevada Irrigation District / Well
Sewage:	Septic
Fire:	Ophir Hill Fire Protection District / Nevada County Consolidated Fire District
Flood Map:	0631, 0650
Zone:	AE, X
ZDM #:	52C, 52B, 53
Schools:	Grass Valley School District / Union Hill School District
Recreation:	Grass Valley
Lot Size:	175 acres surface, 2,585 acres sub-surface
Sup. Dist.:	Heidi Hall, District I; Lisa Swarthout, District III
Date Filed:	November 20, 2019, with final revisions in January 2022
Prev. File #s:	MGT18-0004; MGT18-0020; U94-017; PC09-028; Z93-004; MI91-016; MSP87-005; MSP87-005; SP77-020; LA98-037; Z92-020; U85-05; U79-041; Z92-020; RP92-002; U92-039; U86-045; U85-025; U79-041
Farmland Designation:	Urban and Built-Up Land and Other Land

ATTACHMENTS:

1. Recommended Conditions of Approval and Mitigation, Monitoring and Reporting Program
Exhibit A: Mitigation Monitoring and Reporting Program
Exhibit B: Proposed Underground Mining Area
2. CEQA Findings of Fact and Statement of Overriding Considerations

3. Erratum to Idaho-Maryland Mine Final Environmental Impact Report
4. Idaho-Maryland Mine Project – Supplement to the Final EIR
5. Idaho-Maryland Mine Project – Staff Report Master Responses to Public Comments
6. Idaho-Maryland Mine Project – Response to Public Comments – Traffic, Air Quality, Greenhouse Gas & Biological
7. Groundwater Monitoring Plan (February 2021)
8. Updated Well Mitigation Plan (May 11, 2022)
9. Domestic Well Monitoring Program (July 28, 2022)
10. Vicinity, Zoning & Public Notice Map
11. Applicant’s Variance Justification
12. Idaho-Maryland Mine Project Overview Site Plans
 - A. Mineral Rights Boundary and Surface Properties
 - B. Project Elements and Current Conditions
 - C. Existing Underground Mine Workings
 - D. Isometric Underground Mine Workings
 - E. Proposed Underground Mining Area
13. East Bennett Road Proposed Domestic Water Line
14. Brunswick Industrial Site - Site Plans
 - A. Infrastructure Details
 - B. Biological Summary
 - C. Section Views
 - D. Section Views – Showing Alternate #2
 - E. Preliminary Grading Plan
 - F. Existing Easements
 - G. Photometric Plans
 - H. Preliminary Landscaping Plan
15. Brunswick Industrial Site - Building Elevations, Floorplans
 - A. Building Elevation Architectural Color Renderings
16. Centennial Industrial Site – Site Plans
 - A. Infrastructure Details
 - B. Biological Summary
 - C. Preliminary Gading Plan
 - D. Existing Easements

17. Proposed Boundary Line Adjustment
18. Proposed Final Map Amendment – Bet Acres
19. Draft Development Agreement
20. Draft Financial Assurance Cost Estimate
21. Idaho-Maryland Mine Reclamation Plan, November 2020 (Updated September 2022)
22. Final Environmental Impact Report (Available: www.nevadacountyca.gov/immrise)
23. Draft Environmental Impact Report (Available: www.nevadacountyca.gov/immrise)
24. Public Comments Received Since Close of Draft EIR Public Comment Period – (Available: www.nevadacountyca.gov/immrise and www.nevadacountyca.gov/1752/planning-commission)
25. Full Size Project Plans and Site Plans (Planning Commission)

RECOMMENDATIONS:

Consideration of options for Planning Commission Recommendations to the Board of Supervisors

Recommendation A:

- I. Environmental Action: Recommend the Board of Supervisors certify the Final Environmental Impact Report (EIR 19-0001, SCH# 2020070378) as adequate for the Idaho-Maryland Mine Project, and that it has been completed in compliance with the California Environmental Quality Act, subject to the recommended Mitigation Measures found in the Mitigation Monitoring and Reporting Program (*Attachment 1*) and as have been modified by Erratum to the Idaho-Maryland Mine Project Final Environmental Impact Report, dated April 2023 (*Attachment 3*), and not adopting the California Environmental Quality Act Findings of Fact (*Attachment 2*), and not adopting a Statement of Overriding Considerations (*Attachment 2*).
- II. Project Action: Recommend that the Board of Supervisors deny the Rezone (RZN19-0002) to rezone 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) to allow for surface mining facilities related to the underground mining operation, pursuant to Nevada County Land Use and Development Code, Section L-II 5.9, making findings A and B:
- III. Project Action: Recommend that the Board of Supervisors deny the Variance (VAR19-0003), to allow for the construction of several structures up to a height of 165 feet, where 45 feet is required, pursuant to the Light Industrial Zoning District (Nevada County LUDC, Section L-II 2.5 – Industrial Uses, Table L-II 2.5.E), and making findings A through E pursuant to Section L-II 5.7.E of the Nevada County Land Use and Development Code:
- IV. Project Action: Recommend the Board of Supervisors take no action on the following project components and entitlements: Approving a Development Agreement (MIS22-0019),

approving a Use Permit and Reclamation Plan (CUP19-0004) for uses and facilities over the 80-year permit life consistent with the project as described in the Environmental Impact Report, approving the Management Plans (MGT19-0039, MGT19-0040, MGT20-0009, MGT20-0010, MGT20-0011), approving the Boundary Line Adjustment (LLA20-0006), approving the Parcel Map Amendment (AAM21-0002).

Recommendation B:

- I. Environmental Action: Recommend the Board of Supervisors certify the Final Environmental Impact Report (EIR 19-0001, SCH# 2020070378) as adequate for the Idaho-Maryland Mine Project, and that it has been completed in compliance with the California Environmental Quality Act, subject to the recommended Mitigation Measures found in the Mitigation Monitoring and Reporting Program (*Attachment 1*) and as have been modified by Erratum to the Idaho-Maryland Mine Project Final Environmental Impact Report, dated April 2023 (*Attachment 3*), making the California Environmental Quality Act Findings of Fact (*Attachment 2*) and making a Statement of Overriding Considerations (*Attachment 2*).
- II. Project Action: Recommend that the Board of Supervisors approve the Rezone (RZN19-0002) to rezone 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) to allow for surface mining facilities related to the underground mining operation, pursuant to Nevada County Land Use and Development Code, Section L-II 5.9, making findings A and B.
- III. Project Action: Recommend that the Board of Supervisors approve Use Permit (CUP19-0004) for uses and facilities over the 80-year permit life consistent with the project as described in the EIR, subject to the recommended Conditions of Approval and Mitigation Measures found in the Mitigation Monitoring and Reporting Program (*Attachment 1*) and as have been modified by Erratum to the Idaho-Maryland Mine Project Final Environmental Impact Report, dated April 2023 (*Attachment 3*), making Findings A through L, pursuant to Nevada County LUDC Section L-II 5.6.G and 5.5.2.C and recommend that the Board of Supervisors approve the Reclamation Plan (CUP19-0004) (*Attachment 21*) and Financial Assurance (*Attachment 20*), in accordance with the requirements of the California Surface Mining and Reclamation Plan (SMARA) found in Public Resource Code (PRC) Section 2710 et seq., Title 14 of the California Code of Regulations (CCR) Section 3700 et seq., and Nevada County LUDC, Section L-II 3.22 to reclaim project-related surface disturbance to a condition suitable for industrial uses and to guide site development, operations and monitoring which have been incorporated in the project specific EIR and Use Permit, subject to the recommended Conditions of Approval and Mitigation Measures found in the Mitigation Monitoring and Reporting Program (*Attachment 1*) and as have been modified by Erratum to the Idaho-Maryland Mine Project Final Environmental Impact Report, dated April 2023 (*Attachment 3*), making Findings 1A and 2A through J, pursuant to Nevada County LUDC Sections L-II 3.22.J.1 and L-II 3.22.J.2.a through J.2.h.
- III. Project Action: Recommend that the Board of Supervisors approve Variance (VAR19-0003) to allow for the construction of several structures up to a height of 165 feet, where 45 feet is required, pursuant to the Light Industrial Zoning District (Nevada County LUDC, Section L-

II 2.5 – Industrial Uses, Table L-II 2.5.E), based on upon the following findings (which have been prepared by the applicant as part of the variance request and are included in Attachment 11), subject to the recommended Conditions of Approval and Mitigation Measures found in the Mitigation Monitoring and Reporting Program (*Attachment 1*) and as have been modified by Erratum to the Idaho-Maryland Mine Project Final Environmental Impact Report, dated April 2023 (*Attachment 3*), making findings A through F.

- IV. Project Action: Recommend that the Board of Supervisors approve the Management Plan (MGT19-0039) for the *Centennial Industrial Site Habitat Management Plan for the Pine Hill Flannelbush*, pursuant to Nevada County LUDC, Section L-II 4.3.3, subject to the recommended Conditions of Approval and Mitigation Measures found in the Mitigation Monitoring and Reporting Program (*Attachment 1*) and as have been modified by Erratum to the Idaho-Maryland Mine Project Final Environmental Impact Report, dated April 2023 (*Attachment 3*), making findings A and B.
- V. Project Action: Recommend that the Board of Supervisors approve the Management Plan (MGT19-0040) for the *Centennial Industrial Site Idaho-Maryland Mine Project, Watercourse / Wetlands / Riparian Areas Management Plan*, pursuant to Nevada County LUDC, Section L-II 4.3.3, subject to the recommended Conditions of Approval and Mitigation Measures found in the Mitigation Monitoring and Reporting Program (*Attachment 1*) and as have been modified by Erratum to the Idaho-Maryland Mine Project Final Environmental Impact Report, dated April 2023 (*Attachment 3*), making findings A and B.
- VI. Project Action: Recommend that the Board of Supervisors approve the Management Plan (MGT20-0009) for the *Brunswick Industrial Site and East Bennett Road Right of Way (ROW), Watercourse/Wetlands/Riparian Areas Management Plan*, pursuant to Nevada County LUDC, Section L-II 4.3.3, subject to the recommended Conditions of Approval and Mitigation Measures found in the Mitigation Monitoring and Reporting Program (*Attachment 1*) and as have been modified by Erratum to the Idaho-Maryland Mine Project Final Environmental Impact Report, dated April 2023 (*Attachment 3*), making findings A and B.
- VII. Project Action: Recommend that the Board of Supervisors approve the Management Plan (MGT20-0010) for the *Brunswick Industrial Site: Management Plan for Potential Seismic Hazards*, pursuant to Nevada County LUDC, Section L-II 4.3.3, subject to the recommended Conditions of Approval and Mitigation Measures found in the Mitigation Monitoring and Reporting Program (*Attachment 1*) and as have been modified by Erratum to the Idaho-Maryland Mine Project Final Environmental Impact Report, dated April 2023 (*Attachment 3*), making findings A and B.
- VIII. Project Action: Recommend that the Board of Supervisors approve the Management Plan (MGT20-0011) for the *Brunswick Industrial Site: Management Plan for Steep Slopes and High Erosion Potential*, pursuant to Nevada County LUDC, L-II Section 4.3.3, subject to the recommended Conditions of Approval and Mitigation Measures found in the Mitigation Monitoring and Reporting Program (*Attachment 1*) and as have been modified by Erratum

to the Idaho-Maryland Mine Project Final Environmental Impact Report, dated April 2023 (*Attachment 3*), making findings A through F.

- IX. Project Action: Recommend that the Board of Supervisors approve the Management Plan (MGT20-0012) for the *Centennial Industrial Site: Management Plan for Steep Slopes and High Erosion Potential*, pursuant to Nevada County LUDC, Section L-II 4.3.3, subject to the recommended Conditions of Approval and Mitigation Measures found in the Mitigation Monitoring and Reporting Program (*Attachment 1*) and as have been modified by Erratum to the Idaho-Maryland Mine Project Final Environmental Impact Report, dated April 2023 (*Attachment 3*), making findings A through F.
- X. Project Action: Recommend that the Board of Supervisors approve the Management Plan (MGT20-0013) for the *Floodplain Management Plan for Centennial Industrial Site*, pursuant to Nevada County LUDC, Section L-II 4.3.3, subject to the recommended Conditions of Approval and Mitigation Measures found in the Mitigation Monitoring and Reporting Program (*Attachment 1*) and as have been modified by Erratum to the Idaho-Maryland Mine Project Final Environmental Impact Report, dated April 2023 (*Attachment 3*), making findings A and B.
- XI. Project Action: Recommend that the Board of Supervisors approve the Boundary Line Adjustment (LLA20-0006) to transfer approximately 46.27 acres for there separate parcels (APN: 009-630-009; 006-441-034 and 006-441-003) to reconfigure the property lines to resolve an issue of the proposed buildings crossing property lines at the Brunswick Industrial Site, pursuant to Nevada County LUDC, Section L-II 4.1.3, subject to the recommended Conditions of Approval and Mitigation Measures found in the Mitigation Monitoring and Reporting Program (*Attachment 1*) and as have been modified by Erratum to the Idaho-Maryland Mine Project Final Environmental Impact Report, dated April 2023 (*Attachment 3*), making findings A through D.
- XII. Project Action: Recommend that the Board of Supervisors approve the Map Amendment (AAM21-0002) to the Final Map for Bet Acres, recorded in February 1987 in Book 7 of Subdivisions at Page 75, to remove the “200 foot Building Setback From Fault”, as shown on Sheet 4 of Final Map #85-7, pursuant to Nevada County LUDC, Section L-IV 2.18(D), subject to the recommended Conditions of Approval and Mitigation Measures found in the Mitigation Monitoring and Reporting Program (*Attachment 1*) and as have been modified by Erratum to the Idaho-Maryland Mine Project Final Environmental Impact Report, dated April 2023 (*Attachment 3*), making findings A through G.
- XIII. Project Action: Recommend the Board of Supervisors adopt an Ordinance approving the Development Agreement (MIS22-0019)(*Attachment 19*), pursuant to Nevada County Land Use and Development Code Section L-II 5.18.E, making findings A though E.

Table of Contents:

PROJECT:	1
PROJECT LOCATION:	2
Table of Contents:	9
BACKGROUND:	11
PROJECT LOCATION AND SURROUNDING LAND USES:	14
PROJECT DESCRIPTION:	17
Rezone:	18
Use Permit:	19
Reclamation Plan:	19
Variance:	19
Management Plans:	19
Parcel Map Amendment:	20
Boundary Line Adjustment:	20
Development Agreement:	20
STAFF COMMENT:	20
Baseline:	20
Prepping, Dewatering, and Treatment:	21
Mining Plan:	26
Reclamation Plan:	29
Financial Assurance Cost Estimate (FACE):	30
SITE PLANNING / DESIGN:	32
Aesthetics / Building Design / Site Layout:	32
Western Nevada County Design Guidelines:	33
Lighting:	37
Landscaping and Fencing:	38
Access, Circulation, and Off-Street Parking:	39
Signage:	40
Management Plans:	40
Other Discretionary Approvals:	50
DEVELOPMENT AGREEMENT:	51
ENVIRONMENTAL REVIEW PROCEDURAL COMPLIANCE:	53
Alternatives Evaluated:	54
POTENTIAL IMPACTS AND MITIGATION MEASURE SUMMARY:	59
Aesthetics:	59
Air Quality, Greenhouse Gas Emissions:	59
Biological Resources:	61

Cultural and Tribal Cultural Resources:	62
Geology and Soils:	62
Hazards and Hazardous Materials:	63
Hydrology and Water Quality:	64
Noise and Vibration:	65
Transportation:	66
Public Utilities:	67
Wildfire:	67
RESPONSE TO COMMENTS RECEIVED AFTER THE PUBLICATION OF THE DRAFT AND FINAL EIR:	69
GENERAL PLAN CONSISTENCY AND ZONING CODE CONSISTENCY:	70
General Plan:	70
Zoning Code:	71
Consistency with the General Plan Central Themes:	73
GENERAL PLAN AND ZONING CODE ENTITLEMENT CONSISTENCY:	77
Rezone (RZN19-0002):	77
Requirements for Establishing of the ME Combining District:	78
Consistency with Key General Plan Policies:	79
Inconsistency with Key General Plan Policies:	81
USE PERMIT AND RECLAMATION PLAN (CUP19-0004):	86
Use Permit:	86
Consistent with Key General Plan Policies:	87
Inconsistency with Key General Plan Policies:	89
Consistency with Key Zoning Policies:	91
Inconsistency with Key Zoning Policies:	92
Reclamation Plan:	94
Inconsistency with Key General Plan Policies:	95
Consistency with Key Zoning Policies:	97
MANAGEMENT PLANS:	98
GENERAL PLAN AND ZONING CODE CONSISTENCY CONCLUSION:	106
VARIANCE (VAR19-0003):	107
SUMMARY:	111
CONCLUSION AND RECOMMENDATION A & B:	113
Discussion of Recommendation A:	113
Discussion of Recommendation B:	115
RECOMMENDATION A: The Planning Commission recommends that the Board of Supervisors take the following actions:	116
RECOMMENDATION B: The Planning Commission recommends that the Board of Supervisors take the following actions:	122

BACKGROUND:

The project sites contain the historic Idaho-Maryland Mine underground gold mine. The mine produced 2,414,000 ounces of gold between 1866 and 1956 and has been inactive since closure in 1956 including periods of inactivity during the 1866-1956 production period. The entire mine was allowed to flood with water in 1901 and was subsequently dewatered in 1904. The mine was again naturally flooded with water in 1904 and was subsequently dewatered in 1919. After its final closure in 1956, the mine naturally flooded again.

The Idaho-Maryland Mine encompasses an extensive system of approximately 73 miles of underground tunnels, many raises, four inclined shafts, and two vertical shafts. The historic mining operation had extensive surface infrastructure adjacent to the Centennial Industrial Site and at the Brunswick Industrial Site, most of which has been dismantled and removed.

The Idaho-Maryland Mine as it now exists represents the consolidation of a number of important early day producing mines, including Eureka, Idaho, Maryland, Brunswick, and Union Hill Mines. The mines date back to the mid- to late-19th Century. The Eureka, Idaho, and Maryland mines are all located on the same vein, which is referred to as the Idaho #1 Vein. As terminology can be confusing, it is important to note that after approximately 1926, “Idaho-Maryland Mine” referred to the entire consolidation of mines. However, as used in this Staff Report and the Idaho-Maryland Mine EIR (herein “the EIR”), “Idaho-Maryland Mine”, when referring to the proposed project and dewatering of the mine, refers to the consolidated and interconnected Eureka, Idaho, and Maryland Mines, as well as the Brunswick Mine. The Idaho-Maryland Mine has three distinct sections (Idaho #1, Idaho #3, and Brunswick Mines), which are connected by underground workings. The Union Hill Mine is a smaller mine that was closed in 1918 and has been flooded with groundwater since then. The Union Hill Mine is not connected to the Idaho-Maryland Mine but is near the Brunswick portion of the Idaho-Maryland Mine. The gold-quartz veins of the Union Hill Mine are believed to be part of the Brunswick vein system. The applicant, who purchased the Idaho-Maryland Mine in 2017, is proposing to dewater the Idaho-Maryland Mine and not the Union Hill Mine.

In 1993, the Emgold Mining Corporation (formerly known as Emperor Gold Corp.) purchased the Idaho-Maryland Mine property. In 1996, in an effort to reopen the Idaho-Maryland Mine, Emgold Mining Corporation was granted a Use Permit (U94-017) from Nevada County to dewater the existing underground mine workings. This permit was allowed to expire, and work was not completed on the dewatering project. In 2005, Emgold submitted an application to the City of Grass Valley to annex to the City and dewater the Idaho-Maryland Mine and restart mining and processing operations. Between 2005 and 2011, the City of Grass Valley initiated environmental review of the application consistent with the California Environmental Quality Act (CEQA). Emgold subsequently withdrew the annexation and Use Permit application. A sawmill previously operated on the Brunswick Industrial Site into the early 2000s. All buildings related to the sawmill have been removed. A clay-lined pond, constructed for the sawmill circa 1988, and significant paved areas, remain from the sawmill operation.

The Centennial Industrial Site is also owned by the applicant. The project applicant has entered into a Voluntary Cleanup Agreement with the California Department of Toxic Substances Control (DTSC) for the voluntary cleanup of soil contamination on the Centennial Industrial Site. A Remedial Action Plan (RAP) has been prepared and is under review by DTSC. Under the plan, the project applicant would excavate soils within the former eastern and western tailing ponds and consolidate contaminated materials on-site, as well as stabilize contaminated materials within a small hot spot area by cement treatment prior to on-site consolidation. The 5.6-acre consolidation area would be located along the eastern boundary of the Centennial Industrial Site and capped with four feet of clean engineered soil, with the end result being an engineered fill pad. The environmental cleanup work at the Centennial Industrial Site will be completed under the DTSC voluntary cleanup program and is not a component of the proposed project. As discussed in the Baseline Section of this Staff Report below, the baseline condition for the Centennial Industrial Site has been defined for analysis of certain resource subjects in the DEIR to reflect the post-remediation condition. Additional detail regarding existing contamination issues is provided in Chapter 4.7, Hazards and Hazardous Materials, of the EIR.

City of Grass Valley

The project sites are surrounded by undeveloped open space, industrial, low-density rural residential developments, and commercial uses. Existing land uses surrounding the Centennial Industrial Site include commercial uses and the City of Grass Valley limits to the north, west, and east, and industrial uses to the north, south, and east. Existing land uses surrounding the Brunswick Industrial Site include low-density rural residences to the north, west, south, and east, industrial uses to the north, open-space to the west and south, and South Fork Wolf Creek to the west.

Although not located within the Grass Valley City limits, the Centennial Industrial Site is located within the City's near-term sphere of influence (SOI) and a portion of the Brunswick Industrial Site is located within Grass Valley's long-term SOI. The City of Grass Valley General Plan designates the Centennial site as Urban Medium Density and Business Park, with the portion of the Brunswick site within the City's long-term SOI as Urban Low Density. The Grass Valley General Plan Urban Medium Density designation is intended to accommodate single family and multi-family housing types. The Grass Valley General Plan Business Park designation is to accommodate a variety of employment-generating land uses in a master-planned, campus-type setting, designed to preserve and enhance the natural environment and to be fully integrated into the larger community. The Urban Low-Density designation on a portion of the Brunswick Industrial Site is intended for primarily single family detached houses.

Nevada County General Plan Policy Land Use 1.8.3, states "the County's Plan will not preclude implementation of the City's/Town's Plan by providing for a significantly more intensive land use than the City's/Town's Plan." The Project is consistent with this portion of Policy 1.8.3 as the Project does not propose to change the General Plan designation of the Centennial Site. The General Plan designation of the Centennial Site was established by the County prior to and separately from the proposed Project. The Project is not proposing any specific Industrial land use and is therefore not creating a "more intensive land use" than allowed by the City's land use designation. Rather, the Project merely proposes placement of engineered fill on the Centennial Site, which would create a level area adequate for future industrial use. Nonetheless, no industrial

use is proposed, and the placement of engineered fill would also make the site more conducive to development of uses anticipated under the City's Urban Medium Density and Business Park designations. The Project does not include any entitlements that would require the Centennial Site to be developed for industrial use in the future. In summary, the Project is not changing the land use designation of the Centennial Site and is not approving any specific land use that would conflict with the City's land use designation; therefore, the Project is consistent with General Plan Policy Land Use 1.8.3.

Pursuant to General Plan Policy 1.8.4, for all discretionary projects within a City's Sphere of Influence, the County shall first request that the City/Town determine whether or not it desires to annex the project. As required, the City of Grass held a Development Review Committee (DRC) Meeting on September 8, 2020, and determined that the City did not wish to pursue annexation of the project at that time. Furthermore, the City also provided comments to the County from the DRC meeting, which were reviewed as part of the development of the DEIR.

APPLICATION BACKGROUND:

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 to reinstate 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. Following the submission of the application, the County initiated the process of contracting with a consulting firm to assist with the preparation of an Environmental Impact Report (EIR) for the project and to assist County staff with the review and processing of the project. In April 2020 the County executed a contract with Raney Planning & Management to provide these services. Following the completion of the contracting process, a Notice of Preparation (NOP) to prepare an EIR for the project was prepared and circulated from July 27, 2020 through August 17, 2020, and a virtual project scoping meeting was held on July 27, 2020, for the purpose of informing the public and receiving comments on the scope of the environmental analysis to be prepared for the proposed project. A summary of the comments received on the NOP is available in the Draft EIR (Section 1.8).

Concurrent with the undertaking of the contracting process and the environmental review process, County staff along with Raney conducted a review of the required application content completeness review process with application materials being resubmitted in February 2020 with final submission being in January 2022. In accordance with CEQA, the Draft EIR was sent to the State Clearinghouse (SCH# 2020070378) for distribution to State agencies. The public review period began on January 4, 2022, for a 60-day public review period, which was extended to April 4, 2022, for a total public review period of 91 days. In addition, the Draft EIR, and Notice of Availability (NOA) for the DEIR were published on the Nevada County Community Development Agency website. Printed copies of the DEIR were made available for public review at the Nevada County Planning Department (950 Maidu Avenue, Suite 170, Nevada City, CA), as well as the following library locations: Madelyn Helling Library (980 Helling Way, Nevada City, CA); Grass Valley Library – Royce Branch (207 Mill Street, Grass Valley, CA); Penn Valley Library (11252

Pleasant Valley Road, Penn Valley, CA); and Truckee Library (10031 Levon Avenue, Truckee, CA). A Special Public Meeting before the Nevada County Planning Commission was held on March 24, 2022, to solicit public comments regarding the DEIR.

Following the closure of the public comment period on April 4, 2022, Raney Planning & Management and the County undertook the preparation of the Final EIR (FEIR), constituting the County's formal response to the comments received. All comments received have been addressed in the Final EIR, which was released to the public for review on December 16, 2022.

PROJECT LOCATION AND SURROUNDING LAND USES:

Project Location

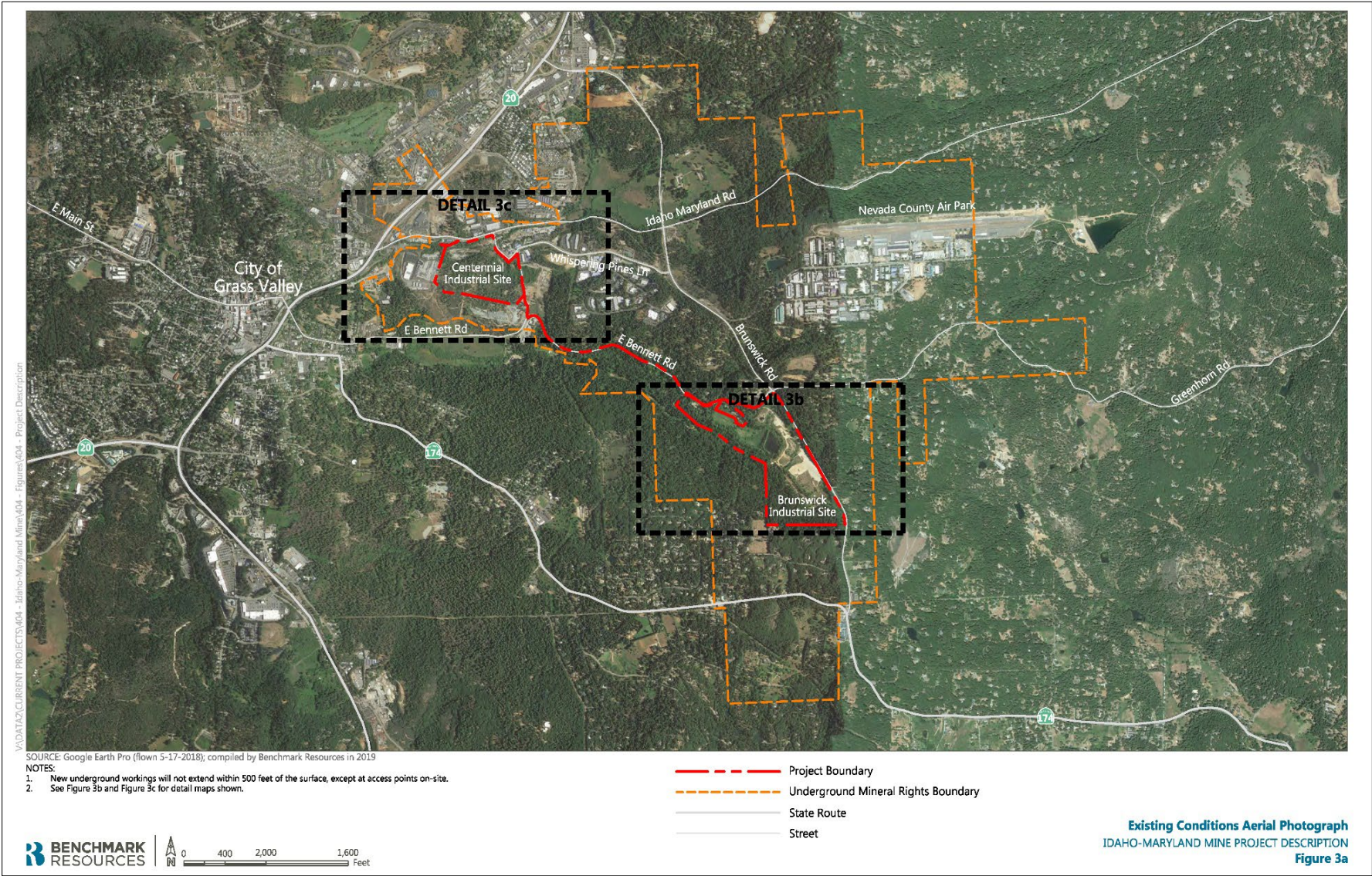
The proposed project's surface components would be located on approximately 175.64 acres consisting of the Brunswick Industrial Site, the Centennial Industrial Site, and a 0.30-acre portion of East Bennett Road for off-site improvements associated with a potable water pipeline easement. The project would also involve underground mining within a defined approximately 1,415-acre portion of the approximately 2,585-acre mineral rights boundary owned by the applicant, as shown on Attachment 1. The potable water pipeline easement would be located along East Bennett Road and would be contained within the existing right-of-way.

The Centennial and Brunswick Industrial Sites are located within unincorporated Western Nevada County and are owned by Rise Grass Valley (Rise) (see Figure 1, below). The 119-acre Brunswick Industrial Site (Assessor's Parcel Numbers [APNs] 006-441-003, -004, -005, -034; and 009-630-037, -039) is located southwest of the intersection of East Bennett Road and Brunswick Road and is accessible from Brunswick Road or East Bennett Road. The 56.41-acre Centennial Industrial Site (APNs 009-550-032, -037, -038, -039, -040; and 009-560-036) is located southwest of the intersection of Idaho Maryland Road and Centennial Drive.

The surface components on the Brunswick Industrial Site, Centennial Industrial Site, and East Bennett Road are located in within the Industrial (IND) Nevada County General Plan Land Use Designation. In addition, the Centennial Industrial Site and East Bennett Road Right-of-Way (ROW) are zoned as Light Industrial (M1); and the Brunswick Industrial Site is zoned as Light Industrial, Site Performance Combining District (M1-SP).

The majority of the aboveground project is located on 29 acres of the Brunswick Industrial Site, which is partially located within the City of Grass Valley's long-term SOI. The southern portion of the Brunswick Industrial Site is outside of the City's SOI. The Centennial Industrial Site is located within the City's Near-Term Sphere of Influence.

Figure 1
Project Location Map



Project Setting

The Brunswick Industrial Site consists primarily of open space, with remnants of the previous gold mining and sawmill operations still located on-site. The terrain of the open space portion of the Brunswick Industrial Site is typical of the lower Sierra Nevada foothills, varying between flat ridges and valleys to gently and moderately sloping hillsides. The Brunswick Industrial Site is located adjacent to South Fork Wolf Creek with a portion of the creek running through the site and is dominated by mixed hardwood-conifer forests and developed areas, with smaller areas of wetlands and annual grassland.

The Centennial Industrial Site, under the baseline condition described in the Baseline section of this Staff Report, consists of an existing approximately 5.6-acre engineered fill pad along its eastern boundary, up to approximately 28 acres of graded, revegetated areas, and the remainder consisting of natural habitats, such as montane hardwood-conifer, chaparral, montane-riparian, and annual grassland.

Historically, underground gold mining occurred below the majority of the project sites, while aboveground portions of the sites were used for various gold mining and processing activities. Several shaft entrances are located on the Brunswick Industrial Site, including the Brunswick and Union Hill shafts. The shafts are covered to prevent inadvertent access. Other portions of the site include graveled or paved areas from previous land uses. Current operations at the Brunswick Industrial Site include those associated with Gold Country Senior Services, specifically, the cutting, storing, and distribution of firewood to seniors. Recent activities have also included use of the Brunswick Industrial Site by a contractor performing vegetation trimming for PG&E.

Surrounding Land Uses

The project sites are surrounded by undeveloped open space, industrial, low-density rural residential developments, and commercial uses. Existing land uses surrounding the Centennial Industrial Site include commercial uses and the City of Grass Valley limits to the north, west, and east, and industrial uses to the north, south, and east. Existing land uses surrounding the Brunswick Industrial Site include low-density rural residences to the north, west, south, and east, industrial uses to the north, open-space to the west and south, and South Fork Wolf Creek to the west. Table 1 below provides a summary of the locations of the surrounding land uses and the receptors closest to the project site.

Table 1			
Surrounding Land Uses and Closest Receptors			
Direction	Land Use	Zoning	Closest Land Use
Brunswick Industrial Site			
North	East Bennett Road, rural residential, industrial	Residential Agriculture (RA-1.5)	Residential
West	Undeveloped land, rural residential, South Fork Wolf Creek	Residential Agriculture (RA-3-PD)	Residential
South	Undeveloped land, rural residential	Single-Family Residential (R-1) and Residential Agriculture (RA-X)	Residential
East	Brunswick Road, Undeveloped land, rural residential	Residential Agriculture (RA-3) and Residential Agriculture (RA-5)	Residential
Centennial Industrial Site			

North	Grass Valley city limits, commercial, industrial, Idaho-Maryland Road	Grass Valley city limits – Commercial/Industrial (M-1 Grass Valley city limits), Grass Valley city limits – Special Districts (SP1-B Grass Valley city limits)	Commercial/Industrial
West	Grass Valley city limits, commercial	Grass Valley city limits – Commercial/Industrial (C-3 Grass Valley city limits) and Business Park (BP)	Commercial
South	Undeveloped land, East Bennett Road, industrial	Light Industrial (M1) and Open Space (OS)	Industrial
East	Grass Valley city limits, Centennial Drive, industrial, commercial	Grass Valley city limits – Special Districts (SPA1-A Grass Valley city limits)	Industrial/Commercial

PROJECT DESCRIPTION:

The proposed project would reinitiate underground mining and gold mineralization processing for the Idaho-Maryland Mine over an 80-year permit period. Following completion of mining and processing activities, the project sites would be reclaimed to open space and industrial uses. The following sections provide an overview of these general project components (for the full Project Description, please see the DEIR Chapter 3.0, Project Description) (Attachment 11):

- Dewatering the existing underground mine workings (approximately 6 months);
- Underground mining at a depth of 500 feet or more within defined areas underlying the mineral rights properties (80 years);
- Construction (approximately 18 months) and operation (80 years) of aboveground processing and water treatment facilities at the Brunswick Industrial Site;
- Engineered fill placement for potential future industrial pad development at the Centennial (approximately 5 years) and the Brunswick (approximately 6 years) Industrial Sites;
- Installation of a potable water pipeline along East Bennett Road for residential potable water supply (approximately 4 months); and
- Reclamation of the project sites in accordance with a proposed Reclamation Plan (upon completion of the 80-year mining).

The majority of aboveground facilities, access to the underground mining, treated-water outfall structure, and a portion of the engineered fill would be located on the Brunswick Industrial Site. The approximately 29-acre aboveground area would provide all the facilities and infrastructure necessary to support dewatering, water treatment, underground mining, gold mineralization and rock processing, and loading and transport off-site. An aboveground pipe would convey treated water from the water treatment facility along an existing road to the planned discharge point at South Fork Wolf Creek. The pipe and discharge point would be located entirely within the property boundaries of the Brunswick Industrial Site. Engineered fill would be placed on approximately 31 acres of the Brunswick Industrial Site to create a level pad of approximately 21 acres for future

industrial use. In total, up to approximately 60 acres of the 119-acre Brunswick Industrial Site could be subject to surface disturbance and/or development for the aboveground facilities and fill placement. The remaining 59 acres would remain as open space and would not be subject to surface disturbance or infrastructure improvements.

Engineered fill would also be placed on the Centennial Industrial Site. Engineered fill would be transported by truck from the Brunswick Industrial Site and placed on approximately 44 acres of the Centennial Industrial Site to create approximately 37 acres for future industrial use. The remaining approximately 12 acres would remain as a private driveway for site access and open space. The open space area will include Wolf Creek, a 100-foot setback for riparian area on Wolf Creek, and an undisturbed zone containing special-status plant species.

After full placement of fill at the Centennial and Brunswick Industrial Sites to the pad design elevations, the need for hauling of engineered fill would continue due to ongoing mining over the Use Permit term of 80 years, and thus, hauling would shift entirely to local and regional markets for sale as construction aggregate and fill. If the separate DTSC cleanup project is not approved by DTSC and completed within the term of the Idaho Maryland Mine Project Use Permit, engineered fill would be placed on the Brunswick site, but not the Centennial site, and the remainder would be hauled to local and regional markets (COA A.19).

A buried potable water pipeline would be constructed along East Bennett Road as part of the proposed project to connect up to 30 properties in the East Bennett area to the NID potable water system. The pipeline would extend an existing NID potable water pipeline along an approximately 1.25-mile segment of East Bennett Road to provide potable water service to residential properties on East Bennett Road currently on wells that may be affected by the project's dewatering of the mine. In addition, the project applicant would offer residences on the streets of Cordell Court, Miskin Court, Amethyst Court, Emerald Court, Diamond Court, and Old Mine Road and several private driveways the opportunity to connect to the new potable water line. Residential connection to the new potable water line would be voluntary, and at the property owner's discretion, but at the cost of the project applicant. NID would be the water supplier for the potable water service.

Of the total 175 acres included in the project sites, approximately 104 acres would be disturbed as a result of construction of the facilities proposed to support dewatering, mining, and processing at the Idaho-Maryland Mine, as well as engineered fill placement.

The following entitlements would be required as part of the proposed project:

Rezone:

The applicant has submitted a Rezone application to rezone 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) to allow for surface mining facilities related to the underground mining operations, pursuant to the Nevada County Land Use and Development Code (LUDC), Section L-II 2.7.3.

Use Permit:

The applicant has applied for a Use Permit for uses and facilities over the 80-year permit life consistent with the project as described in this staff report, including:

- Operation of pumps and a water treatment facility to dewater the underground mine workings;
- Construction of a water pipeline to transport treated water to an outfall located in South Fork of Wolf Creek;
- Construction of the necessary aboveground facilities at the Brunswick Industrial Site (to include but not limited to, headframes and hoists, surface structures, a mineral processing plant) to support underground mining and mineral processing;
- Underground mining, including drilling, blasting, and gold mineralization removal;
- Gold mineralization and rock processing at the Brunswick Industrial Site and off-site transport of gold concentrate;
- Placement of engineered fill at the Brunswick Industrial Site;
- Transport of engineered fill from the Brunswick Industrial Site and placement at the Centennial Industrial Site;
- Transport of engineered fill from the Brunswick Industrial Site to off-site construction projects; and
- Construction of a potable water pipeline to supply residences along a portion of East Bennet Road.

Reclamation Plan:

The applicant has submitted a Reclamation Plan and Financial Assurance Cost Estimate to reclaim project-related surface disturbance to a condition suitable for industrial uses and open space as allowed by Nevada County LUDC, Section L-II 2.5 – Industrial Uses, Table L-II 2.5 D – Light Industrial.

Variance:

A Variance to the Building Height Limits has been requested to allow for the construction of Headframes at 80 and 165 feet in height, two hoist buildings at 50 feet, and a processing plant at 64 feet, where 45 feet is required, pursuant to the Light Industrial Zoning District (Nevada County LUDC, Section L-II 2.5 – Industrial Uses, Table L-II 2.5.E).

Management Plans:

Management Plans (included in the Draft Environmental Impact Report as appendices E.2, F.4, F.5, F.8, H.2, H.3, H.5, and K.6) would need to be approved in conjunction with approval of the proposed project in order to accomplish the following:

- Allow for activities within the required 100-foot setback from the Riparian Area of a Perennial Watercourse (i.e., Wolf Creek and South Fork Wolf Creek), pursuant to Nevada County LUDC, Section L-II 4.3.17, at the Brunswick and Centennial Industrial Sites);
- Minimize the direct impact to special-status plant species, pursuant to Nevada County LUDC, Section L-II 4.3.12, at the Centennial Industrial Site;
- Allow development within locations of areas of Steep Slopes that are in excess of 30 percent and high erosion potential at both the Brunswick and Centennial Industrial Sites, pursuant to the Nevada County LUDC, Section L-II 4.3.13;
- Allow for development within a building setback associated with a fault zone at the Brunswick Industrial Site, pursuant to the Nevada County LUDC, Section L-II 4.3.8; and
- Allows limited grading within the required 100-foot buffer from the Wolf Creek 100-year floodplain boundary, subject to mitigations and conditions that must be complied with to ensure that the operations at the Centennial Industrial Site would not result in adverse effects to the 100-year floodplain associated with Wolf Creek.

Parcel Map Amendment:

An amendment to the Final Map for Bet Acres recorded in February 1987 in Book 7 of Subdivision Maps at Page 75 would be required to remove the “200’ Building Setback From Fault”, as shown on Sheet 4 of Final Map #85-7. The geotechnical support for removing this setback is provided in Chapter 4.6, Geology, Soils, and Mineral Resources of the EIR.

Boundary Line Adjustment:

A Boundary Line Adjustment would be required in order to transfer approximately 46.27 acres for three separate parcels (APN: 009-630-039, 006-441-034, 006-441-003) to reconfigure the property lines to resolve an issue of the proposed buildings crossing property lines at the Brunswick Industrial Site.

Development Agreement:

As part of the proposed project, the applicant proposes to enter into a Development Agreement with the County (Attachment 10). The Development Agreement would establish a framework for: 1.) how the Use Permit (CUP19-004) with a Reclamation Plan would apply to the mining and reclamation phasing of the project; and 2.) costs and timing for the payment of a cents per ton fee, pursuant to CUP19-004 and the scope of those activities.

STAFF COMMENT:

Baseline:

During the public review period of the Draft EIR, numerous comments were received asserting that the proposed project should be analyzed in combination with the Centennial Industrial Site Clean-Up Project (“Clean-Up Project”) as a single project for CEQA purposes. As a preliminary

matter, the Idaho Maryland Mine Project is designed to proceed whether the California Department of Toxic and Substances Control (DTSC) clean-up project is completed or is not completed. If the DTSC clean-up project is completed, the Project is designed such that engineered fill will be transported to the nearby Centennial Industrial Site and used to create useable land for future uses consistent with the applicable zoning. Conversely, if the DTSC clean-up project is not completed within the life of the Project, rock material from the Project that would have been transported to the nearby Centennial Industrial Site, instead would be sold in the regional market as construction aggregate.

Importantly, the Clean-Up Project is a separate project from the Idaho Maryland Mine Project that is independently necessary to remediate site conditions caused by historic operations on the Centennial Industrial Site unrelated to the Project. The reason for the Clean-Up Project was the identification of the Centennial Industrial Site by the United States Environmental Protection Agency (U.S. EPA) as potentially requiring environmental cleanup and the later coordination between the property owner and the DTSC to implement a remedial action plan to remediate lead, arsenic, mercury and other metals found onsite. The U.S. EPA first performed a preliminary analysis on the Centennial Industrial Site in June of 2002, nearly two decades before the Idaho Maryland Mine Project was proposed, and before the project site was owned by the applicant. As the Centennial Industrial Site has been targeted by the U.S. EPA for cleanup since 2002, and discussions regarding cleanup of the Project site were well underway before the Idaho Maryland Mine Project application was submitted, statements that the Clean-Up Project is merely a component of a larger plan to develop an underground gold mine (the Idaho Maryland Mine Project), is factually incorrect. Moreover, approval of the Clean-Up Project is not within the authority of Nevada County; rather, the Clean-Up Project is under the authority of the DTSC.

The Clean-Up Project and the Idaho Maryland Mine Project each have independent utility, each serve a different purpose, and each can be implemented independently from the completion of the other. The utility and purpose of the Clean-Up Project is to ensure timely and efficient cleanup of the Centennial Industrial Site due to existing site conditions and is required under both California and federal environmental regulations—not because it would benefit the Idaho Maryland Mine Project. The separate Clean-Up Project is necessary whether or not the Idaho Maryland Mine Project is approved by Nevada County. Consequently, under the holding in *Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal.App.4th 1209, 1223), the Clean-Up Project should be analyzed separately from the Idaho Maryland Mine Project under CEQA. An expanded discussion of the baseline is provided in Master Response #4 of the Final EIR (FEIR).

Prepping, Dewatering, and Treatment:

Preparation and Dewatering

The Idaho-Maryland Mine would be dewatered using the Brunswick shaft to access the underground workings. The existing Brunswick shaft located on the northeast side of the Brunswick Industrial Site will provide access to the underground workings for dewatering. Currently, groundwater has filled the underground workings to approximately 260 feet below

ground surface (bgs), measured at the Brunswick Shaft. The groundwater would need to be removed to access the underground workings for mining.

Initial dewatering of the underground workings would be accomplished using submersible and staged centrifugal pumps. Approximately 2,500 acre-feet of groundwater would be pumped from the underground workings over an approximately six-month period. The groundwater would be pumped through a new pipeline to an existing clay-lined settling pond for water treatment. The clay-lined pond has a total working capacity of approximately 30 acre-feet. The project includes installation of a synthetic liner over the existing clay liner, originally constructed in accordance with California Regional Water Quality Control Board specifications (see also Mitigation Measure 4.8-1(a)). The synthetic liner will meet the specifications in Title 27, Section 22490(f).

Water produced during dewatering would be treated prior to discharge to South Fork Wolf Creek. It is anticipated that the discharge would occur in compliance with the Central Valley Regional Water Quality Control Board (CVRWQCB) Order No. R5-2022-0006, National Pollutant Discharge Elimination System (NPDES) No. CAG995002. This order is a general Waste Discharge Requirements permit for Limited Threat Discharges to Surface Water. The discharge of treated water from the mine would be covered as Tier 3 discharge of hard rock mine wastewater. The applicant will be required to file a Notice of Intent (NOI) for coverage under the Limited Threat Discharge permit, which will include a detailed description of the dewatering, treatment, and discharge components of the project. The applicant will need to receive a Notice of Applicability (NOA) from the Water Board before dewatering can begin (see also Mitigation Measure 4.8-1(a)).

Recent groundwater sampling identified two constituents of concern, iron and manganese, above State Regional Water Quality Board discharge standards.¹ As described above, groundwater will be pumped from existing underground workings to the existing approximately 30-acre-foot (working capacity), settling pond. The settling pond would be used for water storage and removal of total suspended solids. An aeration system would be installed in the settling pond to oxygenate the water, which would precipitate (i.e., create a solid from a solution) a significant portion of dissolved iron and manganese. Settled solids and precipitated iron and manganese would be contained in the settling pond, which would be removed approximately every 10 years. The solids removed from the pond would be hauled to an appropriate and approved landfill off-site. In addition, the southwest portion of the water treatment pond berm would be excavated and rebuilt before dewatering commences; and as mentioned above, the clay liner of the pond will be covered with a geomembrane liner to ensure no seepage from the pond occurs.

¹ Public concerns have been submitted regarding the chain of custody for the mine water quality samples. Chain of custody forms are included in Appendix K.2 of the Draft EIR (*Groundwater Hydrology and Water Quality Analysis Report for the Idaho-Maryland Mine Project*, February 2021, Emko Environmental, Inc.). As noted in the top right corner of the chain of custody forms in Appendix C of the Draft EIR Appendix K.2 (e.g., pdf report pages 222-238), water samples were delivered to the lab in coolers. In addition, the notes column of the laboratory reports (e.g., pdf report pages 240-323) display codes where hold times are exceeded. A legend for codes is provided on page 324 of the pdf. As can be observed, the substantial majority of samples were analyzed within the accepted hold times.

Water would then be pumped to the proposed water treatment plant (WTP) and filtered to remove the remaining iron and manganese. According to the Water Treatment Plant Design Report, mined MnO₂ will remove the contaminants of concern (iron and manganese) to compliant levels, specified in the CVRWQCB's NPDES Permit No. CAG995002. Based on current groundwater quality conditions, this level of treatment is sufficient to meet State discharge standards; however, the WTP design includes secondary treatment using granular activated carbon (GAC) vessels to add robustness in the event that influent water quality worsens during periods of active mining. GAC is an effective barrier for many water pollutants and can be reused. The treatment process would also reduce the concentrations of arsenic and ammonia, both of which have been detected in low concentrations in surface seeps near the mine.

Ongoing monitoring of influent and effluent (i.e., treated water) will be required by the State, in order for the applicant to receive coverage under the State's Limited Threat Discharge Permit (General Order R5-2016-0076; NPDES No. CAG995002). Monitoring of treated water would occur at a location specified by the State prior to the point of discharge at South Fork Wolf Creek. The applicant would be required to submit quarterly monitoring reports to the State Regional Water Quality Control Board, demonstrating compliance with the maximum daily effluent limitations specified in the NPDES permit (see also Mitigation Measure 4.8-1(a)).

Treated groundwater from the proposed water treatment plant would be pumped through a new aboveground pipeline along an existing access road on the property to a new outfall located adjacent to South Fork Wolf Creek. All discharges from the WTP will be discharged into South Fork Wolf Creek pursuant to the requirements of the CVRWQCB, NPDES, Number CAG995002. The treated water discharged into South Fork Wolf Creek is expected to be at least as good or better quality than the water typically flowing through South Fork Wolf Creek.

The treated water pipeline would cross a Pacific Gas and Electric Company (PG&E) power distribution line and a NID water line easement. At the easement location, the treated water pipeline would be placed in a manner allowing maintenance vehicles to pass over the pipe, and also allow the pipe to be decoupled and moved easily for maintenance.

Operational Dewatering

Groundwater is anticipated to continue to infiltrate the underground workings at a rate of approximately 1.9 cfs (850 gpm) once dewatering is complete. The permitted discharge of 5.6 cfs would provide flexibility to meet the operational requirements for continuous mine dewatering throughout the mine's operation. Operational dewatering during exploration and mining will require the use of centrifugal pumps and sumps at specific elevations during the production life of the mine. Similar to the initial dewatering effort, although at a reduced quantity, groundwater would be pumped to the surface and settling pond through a pipe for water treatment.

Monitoring Wells

A rigorous Groundwater Monitoring Plan (GMP) will be implemented by the applicant to assess how the hydrogeologic system responds to mining (see also Mitigation Measure 4.8-2(a)). Pursuant to the GMP, a network of monitoring wells shall be installed to the satisfaction of the

Nevada County Environmental Health Department. Prior to construction of any monitoring wells within the County or City right-of-way, the applicant shall obtain an encroachment permit from the Public Works Department of the respective agency. Groundwater-level information shall be obtained from the project groundwater monitoring wells and collected on a quarterly basis, and submitted in report form to the Nevada County Environmental Health Department.

The GMP will select locations of the monitoring wells in order to provide spatial coverage throughout the project and adjacent areas. Monitoring well locations will range from within areas of higher predicted drawdowns to outlying areas with minimal predicted drawdowns. Monitoring wells in closer proximity to the mine will generally experience drawdowns before wells farther away. The measurements of water levels in the monitoring wells can be used to verify the groundwater drawdowns as dewatering progresses to provide sufficient time to predict adverse impacts to domestic wells before they occur so that appropriate mitigation measures can be implemented.

Since release of the DEIR for public review and comment, the applicant has also committed to ongoing implementation of a Domestic Well Monitoring Program. Condition of Approval A.6 is recommended that would require the applicant to conduct a Domestic Well Monitoring Program for all property owners identified in Table 1 of the Well Mitigation Plan, who choose to participate in the program. As discussed in Master Response 15 of the Final EIR, the program includes collecting water level data for at least 12 months prior to mine dewatering and throughout the period on initial mine dewatering and reporting the data to the property owners and Nevada County. The resulting data would then be used to supplement the analysis from the GMP to determine whether an individual groundwater well is expected to be impacted or has been impacted by dewatering operations, using the threshold established in the Well Mitigation Plan. Both the GMP and the Domestic Well Monitoring Program will be funded by the applicant. If additional wells, beyond the 30 properties identified in the Well Mitigation Plan (see following section), are projected to be impacted based on well monitoring, pre-emptive action would be taken as necessary to ensure immediate water supply and compensation. The 10% drawdown threshold of significance is extremely conservative for reasons discussed below, and, in most cases, would not lower the water level below the casing of the domestic well. Therefore, well mitigation may not be required after inspection. If reduction of the water column was great enough to reduce the well's yield, a simple adjustment to the pumping system may only be required; for example, by pumping at a lesser rate over a longer duration and if necessary, installing or increasing the size of a pressure or holding tank. In the unlikely case where these measures were not sufficient, appropriate mitigation could consist of the deepening of a single well, drilling of a new well, or the provision of potable water service to a group of wells. The Well Mitigation Plan has been modified to clarify the actions that would be taken as described above.

Potable Water Pipeline and Well Mitigation Plan

A buried potable water pipeline would be constructed as part of the proposed project to provide water to residences along a portion of East Bennett Road. Specifically, the existing NID potable water pipeline would be extended on East Bennett Road to provide potable water service to residences currently on wells that may be affected by the project's dewatering of the mine. The analysis provided in Chapter 4.8-2 of the DEIR concludes that the proposed mining operations

could result in adverse effects to seven domestic water supply wells in the East Bennett area during the life of the mining operation.² While only seven wells are projected to be adversely affected, the applicant has prepared a Well Mitigation Plan that would connect up to 30 properties in the East Bennett area to the NID potable water system. An Updated Well Mitigation Plan (May 11, 2022) is included as Appendix B to the Final EIR and provided as Attachment 13 to this Staff Report. Pursuant to Policy 17.12 of the Nevada County General Plan, Minerals Management Element, the project would address this by installing a potable water supply line in East Bennett Road and providing individual well owners with a connection to the potable water line. No significant impacts to domestic water wells are predicted in the Greenhorn, Woodrose, Beaver or other areas, as drawdown in these areas is not expected to result in a 10% or greater reduction in groundwater well column levels. The predictions include the use of a 100% safety factor mentioned above, multiple sensitivity scenarios in the modelling process (e.g., reduced groundwater recharge due to changing precipitation), and have been peer reviewed by the County's independent expert consultant. However, the DEIR acknowledges that without the implementation of a groundwater monitoring program and well mitigation plan, the project could result in a significant impact to groundwater supplies. Mitigation Measures 4.8-2(a) through 4.8-2(c) of the DEIR require ongoing implementation of the groundwater monitoring program and well mitigation plan.

An approximately 1¼-mile-long by two feet-wide (approximately 0.30-acre) stretch of East Bennett Road would be temporarily disturbed to bury the potable water pipeline. Installation of the buried potable water pipeline would generally involve trenching, pipe placement, backfill, and cover replacement. Initially, an approximately 24-inch- wide by 42-inch-deep open trench would be developed. Excavated asphalt would be disposed of consistent with County regulations and overburden would be stockpiled for use as backfill. Upon completion of trenching in a specific section of the route, the eight-inch pipeline would be installed. The pipe would be covered with the stockpiled soil removed during trenching or engineered fill, as required by County guidelines. The backfilled trench within the East Bennett Road ROW would then be paved consistent with County guidelines.

Pursuant to Mitigation Measure 4.8-2(c), prior to mine dewatering, the project applicant would offer residences on the streets of Cordell Court, Miskin Court, Amethyst Court, Emerald Court, Diamond Court, and Old Mine Road and several private driveways the opportunity to connect to the new potable water line. Residential connection to the new potable water line would be voluntary, and at the property owner's discretion, but at the cost of the project applicant.

² The threshold used to determine adverse domestic well impacts is whether 10% or greater reduction in the total water column. The selection of the 10% reduction as a threshold of significance is discussed in Section 3.2.1, page 80, of Appendix K.2 of the Draft EIR. Drawdowns within wells completed in unconfined aquifer conditions are sensitive to the amount of drawdown that occurs as a percent of the total water column. This sensitivity is due to the reduction in the effective transmissivity that occurs as the height of the water column decreases in unconfined aquifers. Simulations using the Theis equation (Domenico and Schwartz, 1990) indicate that reductions in the water column of 20 percent to 40 percent could cause the production rate of the well to become unstable by incrementally decreasing the water column much more than would occur under existing conditions. For the EIR analysis, a 100 percent factor of safety is applied to the potential reduction resulting in unstable conditions, such that a criterion of 10 percent of the water column is used to define wells that might be substantially affected by dewatering of the underground mine workings.

The pipeline would be installed within the ROW and stubbed at the property owner's property boundary, the precise location of which would be included on the Project Improvement plans to be reviewed and approved by the County (or City, where the City owns the applicable right-of-way). If the property owner decides to connect to the potable water line, the project applicant would fund the permitting and construction costs, and reimburse water charges, for monthly fixed service charges and use of up to 400 gallons per day. The compensation would be at the NID rate at the time of use. The 400 gallons per day rate is based on the single-family home unit demand factor of 0.36 acre-feet per year per connection used by NID for projecting demands. (Page 18 of the NID 2020 Urban Water Management Plan). This is equivalent to 321 gallons per day. The Well Mitigation Plan proposes compensation of up to 400 gallons per day or approximately 25% more than NID's estimate of demand for a single-family home.³

Pursuant to State law requirements (Section 10912 of the California Water Code, as established by Senate Bill 610), a Water Supply Assessment (WSA) was prepared for the proposed project to evaluate the adequacy of NID's total projected water supplies, including existing water supplies and future planned water supplies, to meet the existing and projected future water demands, including those future water demands associated with the proposed project, under all hydrologic conditions (Normal Years, Single Dry Years, and Multiple Dry Years). Senate Bill 610 requires the governing body of the water supply agency (in this case, NID) to adopt the WSA. On February 9, 2022, the NID Board of Directors adopted the WSA, finding that, based on NID's approved Urban Water Management Plan, there is sufficient water supply to meet the demands of the proposed project as required by Water Code requirements.

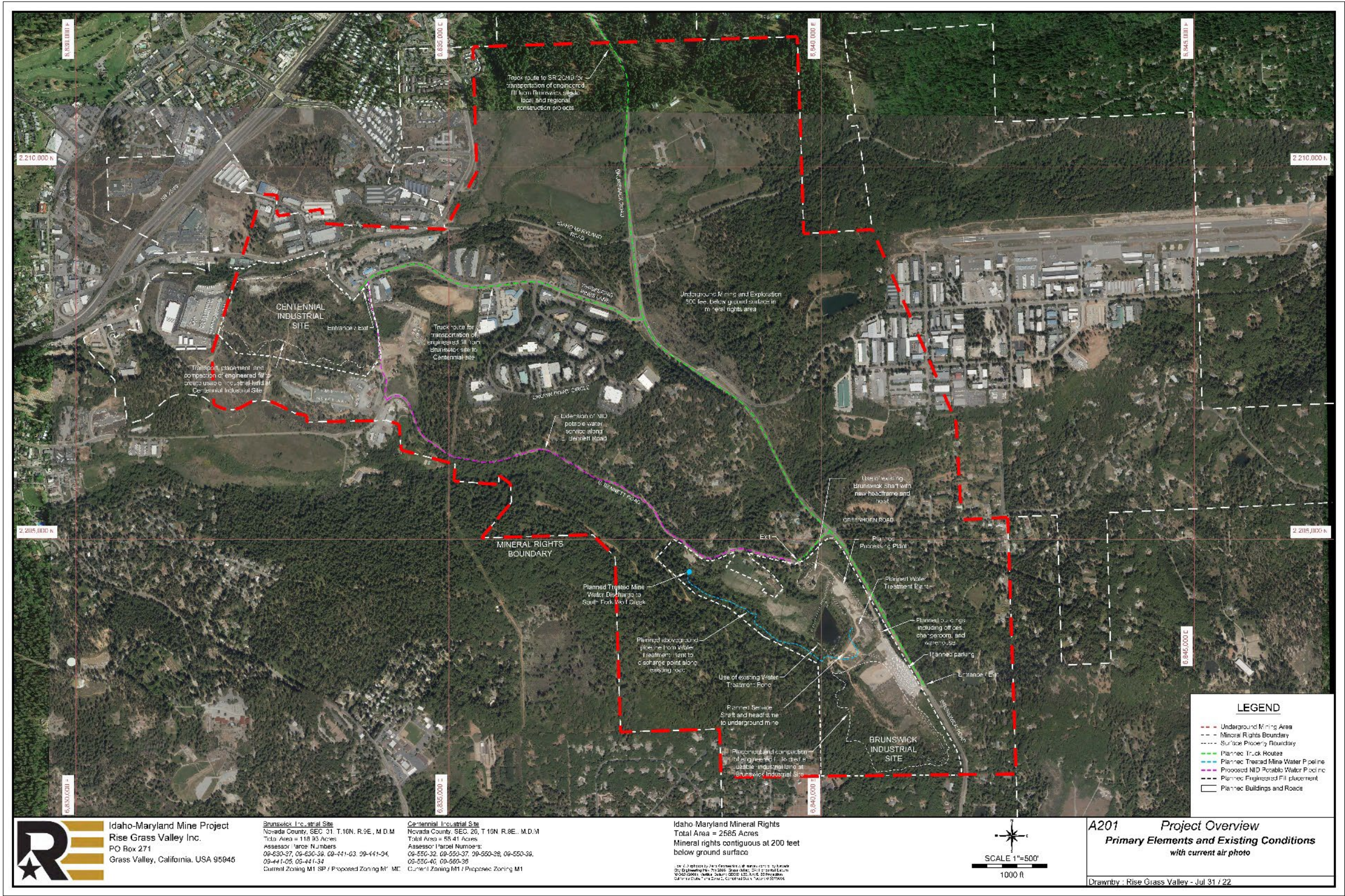
Mining Plan:

Underground Mining:

Exploration and mining of the underground workings would begin once dewatering is complete. Exploration and mining would occur 24 hours a day, seven days a week. Figure 2, below, shows the boundary of the approximately 2,585-acre underground mineral rights area, and the smaller 1,415-acre defined area within the mineral rights wherein the underground mining would take place. A detailed description of such activities is provided in the following sections.

³ It is noted that the water supply assessment performed for the project uses a higher water consumption figure as a conservative measure to ensure adequate water supply; but this is not the appropriate figure to use for the Well Mitigation Plan.

Figure 2
Project Location with Mineral Rights Boundary and Proposed Underground Mining Area



Exploration

Underground exploration would take place after mine dewatering is complete and throughout the 80-year life of the mine. Exploration would be done primarily with diamond core drilling throughout the mine area. The exploration would produce core samples that would be brought to the surface for analysis to determine future mining areas.

Mine Development

To provide access to the gold mineralization, an extensive network of tunnels and raises would be constructed throughout the life of the mine. The tunnels would be constructed in the nonmineralized rock which, at the mine, is typically meta-andesite volcanic rock. The tunnels would be constructed in 10-foot advances per blast (a “round”). A number of parallel holes would be drilled into the rock face, loaded with explosives, and then detonated to fragment the rock.

The broken rock would be moved to the surface, the tunnel would be supported with rock bolts and screen, and then the process would start again to continue advancing the tunnel. A number of tunnels would be under construction throughout the mine area at all times during the life of the mine.

New underground tunnels and raises would be created as necessary to access gold-quartz veins or provide the necessary underground infrastructure to transport rock and provide ventilation and escape routes. The location, size, and depth of new underground workings would depend on surface and underground drilling and mineral testing. New underground workings, except for the service shaft and new ventilation raise, would be below 500 feet of the ground surface.

Ground Vibration Monitoring Program

A Ground Vibration Monitoring Program will be conducted by a qualified consultant during blasting to collect seismographic data to understand how the ground is transmitting vibration throughout the site (see also Mitigation Measure 4.10-4). Results of the ongoing Ground Vibration Monitoring Program shall be submitted to the Nevada County Planning Department for review to determine if blasting vibration exceeds the applicable threshold in which case blasting operations would need to be modified. Additionally, a condition of approval (COA A.34) has been included to ensure all underground blasting for production, tunnelling, and raising would take place more than 500 feet below ground surface and no underground mining will take place outside of the area denoted on the maps included in Figure 2 above and as shown on Attachment 1 and Appendix A of the Final EIR.

Aboveground Facilities Construction and Operation

To support the proposed dewatering and underground mining, aboveground structures and processing facilities would need to be constructed.

- Brunswick Shaft Entrance Improvements
- Rock Bin Conveyors and Barren Rock Loading Area
- Service Shaft
- Process Plant
- Haul/Transport Truck Operations
- Detention Ponds, Storm Drains, and Culvert Replacement

- Proposed Office, Warehouse, Change Room, and Other Structures

With respect to the Process Plant, it is important to note that mercury or cyanide would not be used in gold mineral processing. This is clearly stated throughout the project documentation, including the DEIR (e.g., page 3-25) and Final EIR (e.g., page 2-51). Instead, the processing plant would include common reagents such as collectors, promoters, frothers, and flocculants.

Reclamation Plan:

The proposed Reclamation Plan (Attachment 24 of this Staff Report) outlines that upon completion of underground mining, access to underground workings would be closed consistent with federal and State regulations. Upon completion of aboveground gold processing and off-site sale of engineered fill, the Brunswick Industrial Site would be reclaimed to open space and industrial uses. A majority of the aboveground facilities and structures would remain to support future post-mining industrial uses on the site should they be separately permitted through the County. All paved surfaces, including access roads, parking areas, and driveways, would remain to facilitate access to the site and buildings. The Brunswick and Centennial Industrial Sites fill slopes would be revegetated with an erosion-control seed mix to reduce erosion and maintain fill slope stability. The fill pads would be maintained until they are used or sold for future industrial purposes. Table 2 below provides a summary of which project components would remain.

Table 2	
Reclamation Plan Summary for Operational Components	
Site Component	Reclamation Plan
Potable water extension	To remain to service East Bennett residential area.
Brunswick Industrial Site	
Engineered fill	Transported from process plant, Compacted and graded in lifts pursuant to geotechnical report recommendations. Side slopes would be vegetated and the pad would be an area for future industrial use.
Covered conveyor from Brunswick headframe to process plant	To be dismantled and removed.
Brunswick and Service shaft headframes and headframe buildings	To be dismantled and removed.
Brunswick shaft	To be closed pursuant to applicable State and federal regulations.
Service shaft	To be closed pursuant to applicable State and federal regulations.
Buildings (Including Mineral processing plant, change room and office, warehouse, hoist rooms, generator, water treatment plant, etc.)	Contents of buildings to be removed; buildings to remain for future industrial use.
Site drainage facilities	To remain on-site for support of future industrial development.
Diesel fuel tanks (Two 12,000-gallon tanks)	To be emptied and removed.
Process tanks (clean water, process water, tailing thickener, paste filter feed tank, cement silo, finish water tank)	To remain for future industrial use.
Water treatment pond	To remain on-site for future industrial uses.
South Fork Wolf Creek	Outfall pipeline to be removed after mine dewatering activities are no longer needed.
Paved surfaces, access, and roads	To remain.
Centennial Industrial Site	

Table 2 Reclamation Plan Summary for Operational Components	
Site Component	Reclamation Plan
Engineered fill	Transported from process plant, compacted and graded in lifts pursuant to geotechnical report recommendations. Side slopes would be vegetated and the pad would be reserved for future industrial use.
Site drainage facilities	To remain on-site for support of future industrial development.
Paved surfaces, access, and roads	To remain.

Financial Assurance Cost Estimate (FACE):

The Surface Mining and Reclamation Act (SMARA) was enacted by the State in 1975, through Public Resources Code sections 2710-2796, as a means of minimizing adverse environmental effects of surface mining, ensuring that mined lands are reclaimed to a usable condition and that the production and conservation of mineral resources are encouraged. The act establishes state policy regarding reclamation of mined lands and minerals management practices, among other things.

Prior to commencement of the operation, a Financial Assurance Cost Estimate (FACE) shall be proved to the Nevada County Planning Department pursuant to the Section 2773.1 of the Surface Mining and Reclamation Act (SMARA). The amount of the FACE shall include 100% of all of the reclamation cost for the first full year of mining, plus the applicable contingency, pursuant, pursuant to Section 2773.1 (a)(1), to reclaim and monitor those disturbed areas to the standards set forth in the approved Reclamation Plan. Furthermore, the FACE shall include the cost of all drainage improvements and erosion control. Pursuant to the requirements of SMARA, the FACE shall first be reviewed by the Planning Director and once it is deemed acceptable will then require a second level of review by the California Department of Conservation, Division of Mine Reclamation. Upon acceptance from both Nevada County and the Division of Mine Reclamation, the acceptable FACE shall then be posted with Nevada County. Furthermore, section 2773.1(1)(3) of SMARA states that the financial assurance amount shall be adjusted annually to account for new lands, inflation and reclamation of lands accomplished in accordance with the approved Reclamation Plan.

All Reclamation Plans shall comply with Article 4 Site Development Standards and the provisions of SMARA (Sections 2772 and 2773) and SMARA’s implementing regulations (CCR Sections 3500-3505). The Project’s Reclamation activities will be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance. Interim reclamation may also be required for mined lands that have been disturbed and that may be disturbed again in future operations. Reclamation may be done on an annual basis, in stages compatible with continuing operations, or on completion of all excavation, removal, or fill, as approved by the County. Each phase of reclamation has been described in the Reclamation Plan and will include (a) the beginning and expected ending dates for each phase; (b) all reclamation activities required; (c) standards for measuring completion of specific reclamation activities; and (d) estimated costs for completion of each phase of reclamation. The reclamation plan includes the mining and reclamation schedule show below in Table 3.

Additionally, as required by SMARA, an annual monitoring program and an updated FACE shall be submitted annually to the Planning Department. The monitoring program is required to include:

- A. The amount of material mined in the prior year.
- B. A summary of any reclamation and revegetation, which occurred in the prior year, including the placement of Engineered Fill at either the Brunswick Industrial Site or the Centennial Industrial Site.
- C. A discussion of the success of the previous years' revegetation (when applicable).
- D. A discussion of the adequacy of the existing Financial Assurance Cost Estimate.
- E. Any other information deemed to be pertinent or that is required by the County.

As required by SMARA, the Planning Department is required to perform an inspection of all reclamation activities, which are required to be funded by the applicant or operator and the results of that inspection are sent to the California Department of Conservation, Division of Mine Reclamation for annual review and acceptance.

To ensure that reclamation will proceed in accordance with the approved Reclamation Plan, Conditions of Approval A.6, A.7, A.8, A.9, A.10, A.11, A.12 are recommended requiring Security that will only be released upon satisfactory performance. The project applicant may post security in the form of a surety bond, trust fund, irrevocable letter of credit from an accredited financial institution, or other method acceptable to the County and the State Mining and Geology Board as specified in State regulations, and which the County reasonably determines are adequate to perform reclamation in accordance with the surface mining operation's approved Reclamation Plan.

Table 3	
Mining and Reclamation Schedule	
Operation Element	Duration
Initial Activities	
Initial dewatering	6 months
Aboveground facility outside construction	18 months
Aboveground facility inside construction	18 months
During Mine Operation	
Aboveground facility operations – gold mineralization processing	80 years
Underground exploration/mining	80 years
Placement, grading, and compaction of engineered fill at Centennial Industrial Site (concurrent with underground exploration/mining)	5 years
Placement, grading, and compaction of engineered fill at Brunswick Industrial Site (after completion of fill placement at the Centennial Industrial Site)	6 years
Off-site hauling – gold concentrate	80 years

Off-site hauling – engineered fill	80 years
Outside loading by loader	80 years
After Mine Operations Cease	
Removal of equipment, vehicles, and the general contents of structures; closure of shaft openings, removal of headframes and covered conveyor (after operations cease)	2-5 years

SITE PLANNING / DESIGN:

Aesthetics / Building Design / Site Layout:

Chapter 4.1, Aesthetics, of the EIR provides a detailed analysis of the proposed project’s aesthetic impacts in respect to CEQA guidelines. The following discussion is primarily focused on the proposed project’s compliance with the County’s design regulations and guidelines.

Table 4 below provides the description, size, and height of the proposed buildings and structures to be constructed on the Brunswick Industrial Site. In total, approximately 126,000 square feet of industrial buildings would be constructed on the site. Building use for the calculation of required number of parking spaces pursuant to the Nevada County LUDC, Section L-II 4.2.9, can generally be classified as Office (10,100 square feet), General Industrial (50,700 square feet), Manufacturing (51,000 square feet), and Warehouse (14,500 square feet). Approximately 9,800 square feet of additional structures would be constructed on the Brunswick Industrial Site, including tanks located outside the process and water treatment plants, fuel tanks, a covered conveyor, and a breezeway.

Table 4 Building Summary		
Building	Gross Area (square feet)	Maximum Height (feet)
Brunswick Shaft Complex		
Headframe	2,600	165
Shaft building	1,700	25
Conveyor and raise building	700	17
Rock truck loading	1,700	20
Hoist building	2,800	50
Electrical building	800	15
Mine compressor building	1,600	20
Process Plant Area		
Process plant	29,200	64
Process plant addition	7,300	26
Generator building	3,900	20
Warehouse/Office Area		
Warehouse	28,900	27
Changeroom and office building	24,600	30

Water treatment plant	8,500	26
Machinery building	1,600	20
Service Shaft Complex		
Shaft building	2,700	24
Headframe (located in shaft building)	–	80
Hoist building	2,800	50
Electrical building	800	15
Machinery building	1,600	20
Security building	2,400	15

The industrial buildings include the use of vertical rib metal wall panels for the exterior. The roofs of the buildings are proposed to be standing seam metal roofing panels. The office and water treatment building would also feature front columns with stone veneer. The exterior colors for the building are proposed to be a combination of gray and brown earthtones. Attachment 9 includes building elevations and renderings.

Pursuant to the Nevada County Design Guidelines for Industrial Uses, the parking is broken into multiple lots by landscaping islands. Additionally, a pedestrian path through the parking lot is proposed in order to ensure appropriate standard and comfort for pedestrians. By use of landscaping, the view of loading bays will be minimized. Attachment 3 shows the Brunswick Industrial Site Plan.

The design, layout and support elements of the project meet with the intent of the County’s various plans and programs addressing design related issues. The proposed project includes walkways through the parking areas for safe pedestrian activity. The proposed buildings have been designed with windows, structural bays, roof overhangs, awnings, and other details to minimize the visual impact of large buildings. The buildings also would use muted colors on large wall expenses and incorporate differing colors, materials, and design elements in order to conform with the County’s adopted design guidelines.

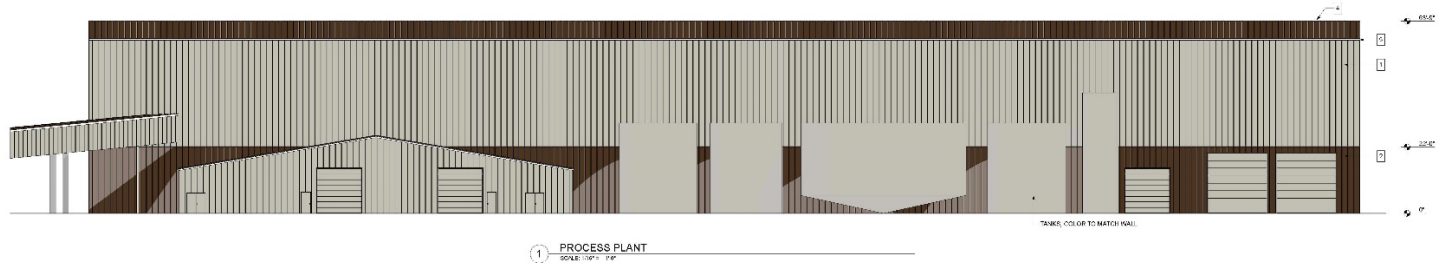
The site’s M-1 zoning requires street setbacks of a minimum of 10 feet with an average of 20 feet. Interior setbacks are not required. As shown on the proposed Brunswick Industrial Site Plan (Attachment 3), the closest structure to Brunswick Road has a setback of 107 feet. The closest structure to Idaho Maryland Road is setback 173 feet. The Brunswick Industrial Site meets the setbacks as outlined in Table L-II 2.5.E of the LUDC.

Western Nevada County Design Guidelines:

The Western Nevada County Design Guidelines, adopted March 19, 2002, are used by County staff during the review of land use permit applications as additional criteria for project review. Generally, the Guidelines encourage the maintenance of community identity and the preservation of historical and cultural sites, buildings, and features. The Guidelines implement General Plan Policies and supplement the Comprehensive Design Standards contained within the Nevada County LUDC.

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. Attachment 14 to the Staff Report includes the full set of elevations and renderings for the Brunswick Industrial Site. A few examples have been included below to facilitate the current discussion.

Process Plant Elevation (Front)



Warehouse Elevation (Front)



While the large massing of the above shown buildings could be further broken down, as recommended in the Western Nevada County Design Guidelines, these buildings will not be visible from Brunswick Road, but rather from the interior of the Brunswick industrial campus. Therefore, staff finds the conceptual design of the front elevations acceptable. However, the rear elevation of the 65-foot-tall process plant building, which is shown below, will be visible from Brunswick Road, although the process plant would be located adjacent a 40-foot embankment that helps to reduce the visual effect of the buildings from outside the site, as illustrated in Figure 4.1-13 of the DEIR.

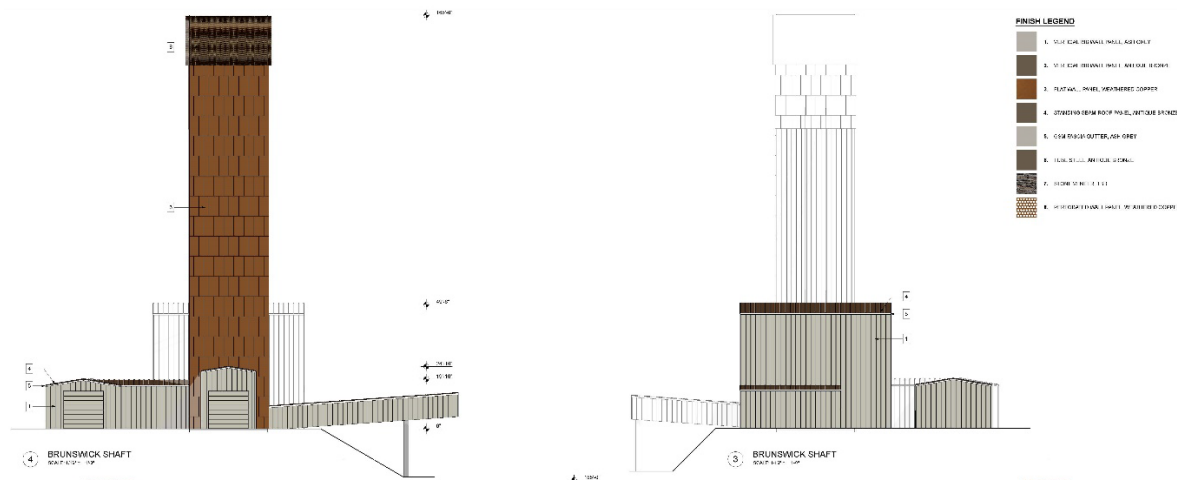
Process Plant (Rear Elevation)



Nevertheless, Condition of Approval A.20 is recommended to require that massing of the rear elevation of the process plant building, which would be partially visible from Brunswick Road, be broken down to better conform to the recommendations in the Western Nevada County Design Guidelines. Chapter 1, Section I, Architectural Design, of the Design Guidelines recommends use windows, structural bays, roof overhangs, awnings, and others to minimize visual impact of large buildings.

The 165-foot-tall headframe building over the Brunswick Shaft would have similar materials and colors as the other campus buildings, such as the warehouse and process plant buildings shown above. The below rendering shows the conceptual front and rear elevations of the headframe and associated buildings. The rear elevation of the headframe building would be partially visible from the corner of Brunswick Road and East Bennett Road, as conceptually shown in Figure 4.1-11 of the DEIR.

Brunswick Shaft Headframe Building (Front and Rear Elevations)



The vertical headframe structure would be clad with a weathered copper, perforated at the top, to help blur the lines between the structure and the sky. While not specifically included in the materials section of the Design Guidelines, copper is a very durable material, resistant to weathering and fire. The dark color, however, may contrast sharply against the sky, given the height of the headframe building, which will silhouette against the sky. While the perforated paneling in the upper portion of the structure will help soften the contrast, staff recommends that the upper portion of the headframe building be clad with a different material that softens the appearance of the headframe building so that it blends better with the sky. Condition of Approval A.19 is recommended ensure that the colors are earth tone in compliance with the Design Guidelines. The height of the proposed headframe building is addressed separately in the Zoning Code/Variance section of this Staff Report.

With respect to landscaping, as part of the proposed project, new trees would be planted along Brunswick Road, which would help to partially screen views of the proposed structures when the trees reach maturity in approximately 30 years. The project features on the Brunswick Industrial Site would increase the existing industrial character of the site where the buildings would be added, and the trees would be removed for the fill pad. Such features would be visible by drivers on Brunswick Road, driving at approximately 50 mph; however, viewing times would be relatively short. The increase in industrial character would be partially reduced over time by the growth of the added vegetation between the road and the project features. Furthermore, Condition of Approval A.18 (Mitigation Measure 4.1-2) is recommended to require the applicant to submit a final landscape plan that must meet certain specified performance standards, including but not limited to new tree plantings along project frontages that must be a mix of 15-gallon and 24-gallon trees for screening purposes.

As previously mentioned, the Centennial Industrial Site is located within the City of Grass Valley's near-term sphere of influence (SOI) and a portion of the Brunswick Industrial Site is located within City of Grass Valley's long-term SOI. The portion of the Brunswick Industrial Site within the City's long-term SOI is commensurate with the County's Community Region boundary. As will

be discussed in more details below, all proposed buildings on the Brunswick Industrial Site are located within the Community Region.

The project areas within Grass Valley's SOI will be referred for a review of consistency with the City's Design Guidelines. The City's Community Design Guidelines include design guidelines for industrial projects. The proposed project is generally consistent with Grass Valley's Community Design Guidelines for industrial projects, subject to the recommendations in this staff report regarding modified massing of the process plant building, and use of different materials in the upper portion of the headframe building. Regarding these recommendations, Appendix F, Metal Building Guidelines, of the City's Community Design Guidelines provides helpful guidance that should be considered. It is noted that Section 2.4, Materials and Finishes, of the City's Design Guidelines, states that "Construction materials that will replicate a sense of Grass Valley's mining heritage shall be utilized in new construction. These include but are not limited to metal roofing and siding, wood siding, split faced block, and stone." The proposed materials and finishes for the project are consistent with these City guidelines. As noted above, pursuant to General Plan Policy 1.8.4, for all discretionary projects within a City's Sphere of Influence, the County shall first request that the City/Town determine whether or not it desires to annex the project. As required, the City of Grass held a Development Review Committee (DRC) Meeting on September 8, 2020, and determined that the City did not wish to pursue annexation of the project at that time.

Lighting:

New light structures are proposed throughout the Brunswick Industrial Site at strategic locations for pedestrian safety along internal walkways and around equipment areas, and to enhance the security of the property. Outdoor lights would be provided at project entry points, within the surface parking lot, and around the Brunswick Shaft and Process Plant and proximate buildings. The proposed project would include mounted lighting features on the outside of the proposed buildings and in the parking areas. The outside area would have shielded, downward-facing outdoor lighting for safety and security and to minimize glare.

As proposed all exterior lighting within the Brunswick Industrial Site would comply with Section L-II 4.2.8, Lighting, of the Nevada County LUDC; Section E, Lighting, of the Western Nevada County Design Guidelines.

The Brunswick Industrial Site is anticipated to include approximately 41 pole-mounted LED lights throughout the operational area, including the parking lot, building complex, and internal roads. The 41 pole-mounted lights would be Gardco (by Signify) LED lights, which are "dark sky approved" by the International Dark Sky Association (IDA). IDA's Fixture Seal of Approval Program certifies outdoor lighting fixtures as being Dark Sky Friendly, meaning that they minimize glare while reducing light trespass and skyglow. All products approved in the program are required to be fully shielded and to minimize the amount of blue light in the nighttime environment. The nearest proposed pole-mounted LED, which is International Dark Sky Association compliant, would be located approximately 100 feet from East Bennett Road. Thus, the existing sensitive receptor along New Brunswick Court would not be impacted by light spillover from the proposed on-site lighting. Similar conclusions can be made for the remainder of the property boundaries, based on the Photometric Plan prepared for the Brunswick Industrial Site;

no light spillover is projected to occur at the property boundaries. Furthermore, the proposed buildings would be painted with nonreflective, nonmetallic paint, which would not cause glare. Lighting or reflective surfaces would not be added upon reclamation of the Brunswick Industrial Site, and reclamation activities would not occur at night. In addition, standard Condition of Approval A.16 is recommended to ensure lighting complies with IDA standards.

All work at the Centennial Industrial Site would be done between 6:00 AM and 10:00 PM. Hauling and dumping of engineered fill at the Centennial Industrial Site would occur between 6:00 AM – 10:00 PM. Placement, compaction, and grading of the engineered fill would occur between 7:00 AM – 3:30 PM. Lighting during nighttime hauling and dumping of engineered fill would be limited to haul truck headlights.

Landscaping and Fencing:

Landscape plans have been prepared for the Brunswick Industrial Site by a licensed landscape architect. In general, screening trees are proposed in breaks in existing tree canopy along Brunswick Road and south of the intersection of East Bennett Road and Brunswick Road. In general, the proposed trees are anticipated to reach full maturity in approximately 30 years (DEIR, pg. 4.1-16). The plant schedule identifies a range of tree species (15-gallon) to be planted in varying quantities. In addition to plantings along Brunswick Road and its intersection with East Bennett Road, landscaping is proposed along the southernmost buildings, and within the southerly parking lot, of the Brunswick Industrial Site. Parking lot landscaping would meet County spacing and coverage standards.

Condition of Approval A.18 and Mitigation Measure 4.1-2 are recommended to require the submittal of a final Landscape Plan prepared by a licensed landscape contractor, landscape architect, landscape designer, or horticulturist, for review and approval by the Nevada County Planning Department. The final Landscape Plan shall include the information identified in Nevada County LUDC Section L-II 4.2.7(E), including:

- All details depicted on the Preliminary plans and any modifications or additions included by conditions of approval;
- Location of all required plant materials, evenly dispersed within each required planting area;
- Legend listing the type, number, and size of plant materials, indicating both the required number and provided number, of each plant type;
- Irrigation plan;
- If existing landscaping, including native vegetation, is to be retained, a note shall be provided on the plan stating that “any existing landscaping or native vegetation shown on the approved plan for retention, that is damaged or removed during construction, shall be repaired or replaced in kind with equivalent size”.

- A Note on the Plan, certified by a Licensed Landscape Architect, Landscape Designer or Horticulturist, that trees are located on the Plan so as to cover 40% of the parking area with tree canopies within 15 years, consistent with Section 4.2.7.2.g of the Nevada County LUDC;
- Assurance that the property owner will be responsible for the replacement of landscaping that does not survive or that deteriorates due to neglect;
- All required trees shall be a minimum 15-gallon container size, with the trunk diameter no less than 1.5 inches for canopy trees, and 1-1.5 inches for understory trees, with the following exception: trees planting along project frontages for screening purposes shall include a mix of 15-gallon and 24-gallon trees. Shrubs shall be a minimum 5-gallon container size, and live groundcover plants shall cover bare ground.
- Varied tree and plant materials shall be used throughout the parking lot. No one species shall comprise more than 75% of the plantings within each of the following categories: canopy tree, understory tree and shrubs. Native vegetation shall be included in all required plantings unless confirmed by a licensed Landscape Architect that a native species will not satisfy a specific requirement; and
- Planting areas within paved parking lots shall be separated from vehicular areas and street right-of-way by a permanently installed concrete or wooden perimeter curb at least 6” high and meet other requirements in Section 4.2.7.2.g.

The Brunswick Industrial Site would include the installation of a chain-link security fence and security post and gate.

Access, Circulation, and Off-Street Parking:

As shown on the submitted site plans, access to the Brunswick Industrial Site is currently provided by gated entrances on both East Bennett Road and Brunswick Road (Attachment 3). The primary entrance/exit for project employees, vendors, and haul trucks would be from the existing Brunswick Road access. The existing East Bennett Road entrance would be used as an exit for haul trucks and large delivery trucks turning right onto East Bennett Road, for emergency personnel and, as necessary, for equipment movement. These driveways will need to meet fire safety commercial driveway standards related to grade, surfacing, and design as outlined in Nevada County LUDC Section L-XVI 3.2 and will require an Encroachment permit from the County (Conditions of Approval B.17).

Access to the Centennial Industrial Site would be provided from Whispering Pines Lane. Pursuant to Mitigation Measure 4.12-6(d) of the DEIR, to provide access to the Centennial site, widening of the south side of Whispering Pines Lane is required. Specifically, Whispering Pines Lane would be widened to provide a 12-foot, two-way-left-turn-lane (TWLTL), a 12-foot travel lane and a 6-foot bicycle lane, subject to approval from the City of Grass Valley, as included in recommended Condition of Approval K.4. This layout will allow haul trucks to queue in the TWLTL, while waiting to enter the site. The traffic assessment prepared for the project shows that inbound and outbound trucks can turn simultaneously without interfering with the opposing vehicle.

A total of 217 off-street parking spaces would be provided at the Brunswick Industrial Site, as shown below in Table 5, which would exceed the required total number of off-street parking spaces required which would be 210, based on the proposed uses as required by Nevada County Land Use and Development Code, Section L-II 4.2.9 – Parking and as outlined below in Table 5. In addition, the proposed project would include bicycle racks with space for a minimum of 44 bicycles at the Brunswick Industrial Site. Landscaping of parking areas would be designed and constructed in compliance with Section L-II 4.2.7.g – Landscaping.

Table 5 Parking Summary						
Area	Regular	Compact	Electric Vehicle (EV)	Wheelchair Accessible	Wheelchair Van Accessible	Total
Main parking lot	119	56	13	-	-	188
Office and warehouse	5	-	-	6	1	12
Process plant	10	-	-	1	1	12
Brunswick shaft	5	-	-	-	-	5
Total Provided:	139	56	13	7	2	217
Total Required:	-	-	-	7	-	210

Signage:

The signage included in the proposed project relates mostly to traffic and safety. Mitigation Measure 4.10-2 requires the project applicant to post signage at the exits of both the Centennial Industrial Site and Brunswick Industrial Site informing drivers that the use of Jake brakes is not permitted in order to reduce noise impacts. Additionally, Mitigation Measure 4.12-6(a) requires the submittal of a construction signing and traffic control plan to the Nevada County Public Works Department and the City of Grass Valley for review and acceptance.

Management Plans:

Management Plans are a Nevada County tool that can be used to minimize the impacts of development on environmentally sensitive environmental resources and/or constraints. Pursuant to Nevada County LUDC, where avoidance is not a feasible alternative, a Management Plan may be prepared.

Management Plans proposed in conjunction with a discretionary project, such as the proposed project, shall be considered by the hearing body reviewing the project. Management Plans are required for certain types of resources. A total of seven Management Plans were prepared for the proposed Idaho-Maryland Mine project.

1-2. Water Resources / Riparian Area Management Plans:

Pursuant to the Nevada County LUDC, Chapter II; Zoning Regulations, Section L-II 4.3.17 a Watercourses, Wetlands, and Riparian Areas Management Plan shall be prepared for projects in non-disturbance buffers, including areas that are within 100 feet of the high water mark of perennial streams, watercourses, and wetlands, 50 feet from the high water mark of intermittent watercourses, and 100 feet upslope or 20 feet downslope from a Nevada Irrigation District canal.

1. Centennial Industrial Site Idaho-Maryland Mine Project, Watercourse/Wetlands/Riparian Areas Management Plan.

The proposed project would construct improvements within non-disturbance buffers, as follows:

- Construction and grading from the engineered fill industrial pad on the Centennial Site will cause permanent impacts to two (2) mapped stream features (E-3 and E-4) and their associated 50-foot non-disturbance buffer zone. The 2 features consist of 2 ephemeral streams. It is estimated that a maximum of approximately 0.033-acre of streams will be permanently filled.
- Pre-construction activities and grading near the toe of the engineered fill industrial pad on the Centennial Site may cause temporary impacts to the 100-ft non-disturbance buffer of Wolf Creek (perennial creek).

The above-listed encroachments within the non-disturbance buffers are not fully avoidable given the amount of engineered fill that needs to be deposited on the Centennial Site and considering that the proposed footprint of the engineered fill pad has already been overlain onto the areas that are anticipated to be disturbed during the separate Clean-Up project, in an effort to minimize any further site disturbance associated with the IMM project.

The Watercourse/Wetlands/Riparian Areas Management Plan for the Centennial Site was prepared by Greg Matuzak, Principal Biologist of Greg Matuzak Environmental Consulting LLC in January 2021. The Management Plan includes measures to avoid and minimize impacts to Wolf Creek and nearby ephemeral streams. Therefore, the Management Plan meets the requirements of the Nevada County LUDC for the proposed development within aquatic features mapped within the Site, as well as potential disturbance within the non-disturbance buffers of the aquatic features.

The Management Plan includes mitigation measures to ensure that potential impacts to stream and wetland resources, as well as their non-disturbance buffer areas, are minimized. As further discussed below, a similar Management Plan has been prepared for the Brunswick Site. Implementation of the Management Plan and its recommended measures are required by Mitigation Measure 4.4-3(b) of the DEIR. Generally, the mitigation requires limiting construction to periods of extended dry weather; placement of soil erosion control devices (such as wattles, hay bales, etc.) between the protected aquatic resources (wetlands and streams) and the areas to be graded and disturbed to limit potential runoff and sedimentation into such protected resources; minimizing the placement of rock and rip rap along the embankments of creeks (i.e., Wolf Creek for the Centennial Site and South Fork Wolf Creek for the Brunswick Site); implementation of a revegetation plan for the creek beds and banks, subject to a CDFW Streambed Alteration Agreement; and revegetation of exposed bare soil along the embankment of the creeks.

2. Brunswick Industrial Site and East Bennet Road Right of Way (ROW), Watercourse/Wetlands/Riparian Areas Management Plan

Similar to the Centennial Industrial Site, a Watercourse/Wetlands/Riparian Areas Management Plan was prepared for the Brunswick Industrial Site, pursuant to Nevada County LUDC Section L-II 4.3.17. The Watercourse/Wetlands/Riparian Areas Management Plan was also prepared by Greg Matuzak, Principal Biologist of Greg Matuzak Environmental Consulting LLC in January 2021.

The proposed project will construct improvements within non-disturbance buffers, as follows:

- Construct treated mine water outfall to South Fork Wolf Creek. This improvement, which cannot be avoided due to the project's proposal to discharge treated mine water to South Fork Wolf Creek, will result in approximately 0.01-acre of permanent impact to the southern bank of South Fork Wolf Creek from placement of the pipe and modification of the stream bank to ensure adequate energy dissipation. South Fork Wolf Creek has a 100-foot non-disturbance buffer zone.
- Treated water pipe placement will cross ephemeral stream (E-1). The proposed treated mine water discharge pipe will be aboveground, located along an existing access road on the south side of South Fork Wolf Creek. The existing access road crosses the ephemeral stream feature E-1. A support structure will be constructed across the ephemeral stream (E-1) so that the pipe crosses over the 2ft-wide stream instead of through the stream, which may cause a temporary impact to approximately 16 linear feet of the stream. Full avoidance is not feasible due to on-site resources; this alignment for the pipe avoids impacts to South Fork Wolf Creek to the maximum extent feasible. Ephemeral Stream E-1 has a 50-foot non-disturbance buffer zone.
- Replacement of deteriorated culvert at South Fork Wolf Creek. The deteriorated 48-inch buried culvert that runs underneath the Brunswick Industrial Site will be replaced and upgraded as part of the proposed project. It is estimated that the culvert replacement may have a temporary impact area of 0.04-acre within or adjacent to South Fork Wolf Creek. This would cause a temporary impact during replacement and existing conditions would be re-established once the culvert is replaced. This culvert replacement would be considered an improvement and avoidance is not feasible.
- Permanent fill to small wetlands from construction. The layout of the proposed project minimizes impacts to wetlands as evidenced by the fact that the proposed project would impact approximately 0.57-acre of a total of 8.72 acres of wetlands on the Brunswick Site. Full avoidance is not feasible given the needed parking areas, industrial buildings foundations, engineered fill area, etc. Wetland aquatic resources have a 100-foot non-disturbance zone.
- Site grading will encroach on intermittent stream (I-5). Grading of the site for construction preparation will cause a permanent impact to approximately 34 linear feet of the intermittent stream feature I-5. This mapped intermittent stream feature originates from a culvert which transports surface drainage from the northeastern portion of the Brunswick Industrial Site near the proposed Brunswick shaft complex. Proposed construction activities would require extension of the existing culvert so that flow of surface drainage

is not interrupted when constructing the on-site access roadway. The intermittent stream has a 50-foot non-disturbance buffer zone.

- Engineered fill will encroach on ephemeral stream (E-2). The construction extent of the proposed surface detention pond would cause a permanent impact to approximately 188 linear feet of ephemeral stream feature E-2. Following construction, site drainage will continue to drain to the lower reaches of ephemeral stream feature E-2 and subsequently South Fork Wolf Creek, similar to pre-construction conditions. The surface detention pond is strategically located at the toe of the engineered fill slope, and thus, avoidance of this impact is not feasible. Ephemeral stream E-2 has a 50-foot non-disturbance buffer zone.
- Repair of existing clay-lined pond berm. The repair work of the clay-lined pond berm will occur within the 100-foot non-disturbance buffer zone for South Fork Wolf Creek. In general, the improvements will consist of removing the layer of organic fill (sawdust) from the southwestern-most 200-foot segment of the dam and replacing with compacted, engineered fill.

The Management Plan for the Brunswick Site includes mitigation measures to ensure that potential impacts to stream and wetland resources, as well as their non-disturbance buffer areas, are minimized. Implementation of the Management Plan and its recommended measures are required by Mitigation Measure 4.4-3(b) of the DEIR (summarized above).

3. Centennial Industrial Site Habitat Management Plan for the Pine Hill Flannelbush (Fremontodendron decumbens):

The Pine Hill Flannelbush Management Plan for the Centennial Industrial Site has been developed in compliance with the Nevada County LUDC, Section L-II 4.3.12, which includes regulations intended to follow the federal Endangered Species Act (FESA) and the California Endangered Species Act (CESA), by avoiding the impact of development on rare, threatened, endangered, and special-status species and their habitat, or where avoidance is not possible, to minimize or compensate for such impacts and to retain their habitat as non-disturbance open space. The regulations indicate that a project may only be approved when it is determined by the Nevada County Planning Agency that it will not adversely affect rare, threatened, or endangered species or their occupied habitat and that it will result in no net loss of habitat function or value for the defined species. When it is determined that a project will adversely affect a defined species or their habitat, the regulations require that a site-specific habitat management plan consistent with state and federal requirements be prepared.

Pine Hill flannelbush (*Fremontodendron decumbens*) inhabits rocky ridges on gabbro and serpentine soils within chaparral and cismontane woodlands within the central Sierra Nevada foothills. It is listed as endangered by the United States Fish and Wildlife Service (USFWS) under FESA and is listed as Rare by the California Department of Fish and Wildlife (CDFW). Pine Hill flannelbush also has a California Rare Plant Rank (CRPR) 1B.2 status on the California Native Plant Society's (CNPS) Inventory of Rare and Endangered Plants (CNPS, 2019).

The Pine Hill flannelbush is listed within the California Natural Diversity Data Base (CDFW, 2019) as potentially occurring within the southern section of the Centennial Site and within

adjacent private lands to the south. The plants were initially identified and mapped as Pine Hill flannelbush in 1999, 2008, and 2009; however, since the species was mapped by the CDDDB within the Centennial Site as the Pine Hill flannelbush, the identity of the plants has been questioned.⁴ The Centennial Site does contain the appropriate soils and vegetation community types required for the Pine Hill flannelbush.

Sixty (60) individual mature and flowering Pine Hill flannelbush plants occupy an absolute area of 0.22 acres over approximately 4.5 acres of the Centennial Site. The base of the engineered fill that would be placed on the Centennial Site during the proposed mining operations at Brunswick would extend approximately 44 acres across the site, although much of the area would have already experienced surface disturbance by site remediation efforts, as previously discussed. The proposed placement of engineered fill at the Centennial Site would impact 18 Pine Hill flannelbush plants directly by requiring their removal as part of the Idaho-Maryland Mine Project. The remaining 42 individual Pine Hill flannelbush plants are located outside of the proposed engineered fill areas and therefore, they would not be directly impacted by the Idaho-Maryland Mine Project. It is not feasible to fully avoid impacting Pine Hill flannelbush due to the area required for engineered fill placement.

The Management Plan includes the following conservation measures, required by DEIR Mitigation Measure 4.4-1(a), should any sensitive plants be identified on the Centennial Industrial Site during the pre-construction survey required by said measure:

- Avoid impacts to sensitive plants where identified within the proposed disturbance areas. However, if avoidance and preservation is not possible, consultation with CDFW and USFWS will be required for impacts to Pine Hill flannelbush (*Fremontodendron decurrens*). Based on the consultation with CDFW and USFWS for this species, mitigation requirements could include, but may not be limited to the following: appropriate onsite enhancement for the species, site restoration for the species, and/or offsite compensation of impacts for the species. Consultation with CDFW and USFWS is also recommended for the development and implementation of other state and federally listed plant species or CNPS list 1 and 2 species identified within the project disturbance areas.
- The Applicant shall collaborate with the UC Santa Cruz Native Plant Program to conduct the collection, storage, planting, propagation, and germination of Pine Hill flannelbush seeds and plants.

⁴ As stated on page 4.4-24 of the DEIR,

CDFW assumes that the plants mapped within the Centennial Industrial Site are either a distinct population of Pine Hill flannelbush or a hybrid with the more common *Fremontodendron californicum* (CDFW, 2019). However, the USFWS Recovery Plan Amendment for Gabbro Soil Plants of the Central Sierra Nevada Foothills: El Dorado Bedstraw (*Galium californicum* ssp. *sierrae*) and Pine Hill flannelbush (*Fremontodendron californicum* ssp. *decumbens*) states that “Results of subsequent genetic work by a University of California, Davis researcher, to determine if Nevada and Yuba County flannelbushes are Pine Hill flannelbush, were inconclusive; therefore, we [the USFWS] continue under the assumption that these plants are not the listed entity.

- Protect all individuals of Pine Hill flannelbush and their habitat that occur outside of the disturbance footprint by conducting the following steps as recommended in the Management Plan: seed collection; develop transplantation plan and monitoring plan; transplanting; transplant monitoring; and take the recommended alternative measures to transplantation and seed collection if the previous measures are not successful in maintaining the Pine Hill flannelbush population.
- Monitoring of the population should be conducted on an annual basis until the success criteria as listed in Section 6.3.1 of the Management Plan are met. As per the Recovery Plan (USFWS) monitoring shall include: (1) population counts and demographics including some estimate of seedbank dynamics; (2) photopoints; (3) existing or new threats; (4) cooccurring species especially invasive plant cover estimates; (5) density and estimates of acreage occupied; and (6) time since last disturbance.

4-5. Management Plans for Steep Slopes and High Erosion Potential:

Full avoidance of steep slopes, defined by Nevada County LUDC Section L-II 4.3.13 as slopes of 30+%, and high erosion hazard areas, would render the proposed project infeasible for the reasons set forth below. In order to develop and/or disturb areas of steep slopes and high erosion potential, approval of a Management Plan is required. Management Plans for Steep Slopes and High Erosion Potential for the Centennial and Brunswick Industrial Sites (2020) were prepared pursuant to Nevada County LUDC Section L-II 4.3.13 to provide a professional site-specific inventory and analysis of steep slope and high erosion potential areas of the Sites, and to evaluate these constraints and recommend mitigation and/or managed alternatives to avoid or reduce the impacts. The inventory and analyses are performed for the entire Sites, including all areas of proposed disturbance.

4. Brunswick Industrial Site

High erosion hazard areas on the Brunswick Industrial site are limited to the Aiken loam soil type (15-50 percent slopes), which have a severe erosion hazard potential. Aiken loam (15-50 percent slopes) comprises approximately 15.5 percent of the overall 119-acre site. The soils are generally located in the central southwest and southeast portions of the Site, and small isolated areas along Brunswick Road. The limited areas of 30 percent slope are located throughout the site such that full avoidance is not feasible (see Figure 4.6-5 of the DEIR).

The Management Plan for Steep Slopes and High Erosion Potential for the Brunswick Industrial Site includes the following mitigation recommendations, required by Mitigation Measure 4.6-2 of the DEIR:

- Perform earthwork in accordance with the grading recommendations presented in the Geotechnical Engineering Report, Idaho-Maryland Mine Project, Brunswick Industrial Site (NV5; November 18, 2019). The report presents recommendations for clearing, fill placement, fill slope grading, drainage, erosion and sediment control, grading plan review and construction monitoring.

- Incorporate the provisions of the Erosion and Sediment Control Plan into the project design:
 - The Erosion and Sediment Control Plan (Sheet 1 of the Management Plan for Steep Slopes and High Erosion Potential for the Brunswick Industrial Site) is based on a preliminary grading and drainage plan prepared by Nevada City Engineering, Inc. (Sheet B-1; NCE, 2019).
 - Hydraulic calculations associated with the drainage improvements are presented in a Preliminary Drainage Analysis (NCE, October 2019) submitted under separate cover.
 - Pursuant to LUDC Section L-V 13.14, the Erosion and Sediment Control Plan was prepared with long-term erosion and sediment control as a primary consideration. Sheet 1 depicts the long-term controls at final project development. The temporary BMPs added to the plan by NV5 are intended to provide short-term erosion and sediment controls until vegetation is established.
- Figure 1 of the Management Plan for Steep Slopes and High Erosion Potential for the Brunswick Industrial Site presents typical temporary BMPs for placement of engineered fill against steep slopes as the project progresses. To reduce the possibility of erosion and sediment transport and the need for additional BMPs, the disturbance of steep slope areas should not extend beyond the area proposed to receive fill during that season (i.e., prior to the next anticipated storm event). Figure 1 depicts a maximum recommended vertical distance of 20 feet for removal of vegetation above the elevation of the current fill surface.
- Pursuant to the National Pollutant Discharge Elimination System (NPDES), coverage is required under the Construction General Permit (Order No. 2009-0009-DWQ) issued by the State Water Resources Control Board (SWRCB) to address discharges of storm water runoff.
 - A Notice of Intent (NOI) must be submitted and a permit fee must be paid.
 - A Storm Water Pollution Prevention Plan (SWPPP) must be prepared to address storm water BMPs for erosion control, sediment retention and waste management.
 - The SWPPP must be updated for each phase of the project and for each stage of project development.

5. Centennial Industrial Site

Areas of steep slopes at the Centennial Industrial Site are based on a grading plan prepared by Nevada City Engineering, Inc. Overall, the Site is relatively gently-sloping. Nevada City Engineering, Inc. estimated that the proposed area of disturbance created from placement of engineered fill from the mine would include a maximum of approximately 4.1 acres of steep slopes. This estimate is an absolute maximum because it reflects existing physical conditions at the Centennial Industrial Site, whereas, a portion of these steep slope areas would be removed during remediation activities, which remediation activities are not part of the proposed project. The majority of the steep slope area is a result of cut and fill associated with the historical mine tailings ponds and the dam on the eastern Site boundary. Discontinuous and infrequent pockets of native slope gradients 30 percent or greater are present within an area to receive mine rock fill in the central and southern portions of the proposed disturbance area. The fill is to be placed against

the native slope, resulting in a relatively flat finished grade that extends to the north, away from the native slope face. The limited areas of 30 percent slope are located throughout the site such that full avoidance is not feasible (see Figure 4.6-4 of the DEIR).

The Management Plan for Steep Slopes and High Erosion Potential for the Centennial Industrial Site includes the following mitigation recommendations, required by Mitigation Measure 4.6-2 of the DEIR:

- Perform earthwork in accordance with the grading recommendations presented in the Geotechnical Engineering Report, Idaho-Maryland Mine Project, Centennial Industrial Site (NV5; December 10, 2019). The report presents recommendations for clearing, fill placement, fill slope grading, drainage, erosion and sediment control, grading plan review and construction monitoring.
- Incorporate the provisions of the Erosion and Sediment Control Plan into the project design:
 - The Erosion and Sediment Control Plan is based on a preliminary grading and drainage plan prepared by Nevada City Engineering, Inc. (Sheet B-1; NCE, 2019).
 - Hydraulic calculations associated with the drainage improvements are presented in a Preliminary Drainage Analysis (NCE, October 2019) submitted under separate cover.
 - Pursuant to LUDC Section L-V 13.14, the Erosion and Sediment Control Plan was prepared with long-term erosion and sediment control as a primary consideration. The temporary BMPs added to the plan by NV5 are intended to provide short-term erosion and sediment controls until vegetation is established.
- The Management Plan for Steep Slopes and High Erosion Potential for the Centennial Industrial Site presents typical temporary BMPs for placement of engineered fill against steep slopes as the project progresses. To reduce the possibility of erosion and sediment transport and the need for additional BMPs, the disturbance of steep slope areas should not extend beyond the area proposed to receive fill during that season (i.e., prior to the next anticipated storm event). Figure 1 of the Management Plan depicts a maximum recommended vertical distance of 20 feet for removal of vegetation above the elevation of the current fill surface.
- Pursuant to the National Pollutant Discharge Elimination System (NPDES), coverage is required under the Construction General Permit (Order No. 2009-0009-DWQ) issued by the State Water Resources Control Board (SWRCB) to address discharges of storm water runoff.
 - A Notice of Intent (NOI) must be submitted and a permit fee must be paid.
 - A Storm Water Pollution Prevention Plan (SWPPP) must be prepared to address storm water BMPs for erosion control, sediment retention and waste management.
 - The SWPPP must be updated for each phase of the project and for each stage of project development.

6. Idaho Maryland Mine – Portion of Brunswick Industrial Site: Management Plan for Potential Seismic Hazards:

A Brunswick Management Plan for Potential Seismic Hazards (2020) was prepared pursuant to Nevada County LUDC Section L-II 4.3.8 to address potential seismic hazards associated with a previously-identified fault alignment. Section L-II 4.3.8.C requires a management plan for development projects that will result in disturbance within seismically active areas, which are defined in Section L-II 4.3.8.B as areas determined to be within a seismic hazard zone or to have the potential to suffer ground rupture from active faults by the State Division of Mines and Geology.

According to the Nevada County Planning Department property title records, an inferred fault alignment and a 200-foot building setback zone on each side of the inferred alignment passes through the Brunswick Industrial Site. The fault line and setback are recorded on Final Map 85-7 (Book 7 of Subdivisions at page 75) prepared by A.W. Beeson & Associates, Inc. (Beeson; January 1987) for the previously-proposed BET Acres Subdivision.

According to the map prepared by Beeson (1987), the recorded fault alignment is based on an “Anderson Geotechnical Report.” The report was likely prepared by Anderson Geotechnical Consultants, Inc. (Anderson), who performed other geotechnical investigations in the area during this time. The report was not located by public records review and was not available from the firm that subsequently acquired Anderson.

The CGS Special Publication 42, Fault Rupture Hazard Zones in California, describes active faults and fault zones (activity within 11,000 years), as part of the Alquist-Priolo Earthquake Fault Zoning Act. The site is not located within a currently designated Alquist-Priolo Earthquake Fault Zone, and no known surface expression of an active fault has been identified at the Site. Fault rupture through the site, therefore, is not considered likely. The NV5 geotechnical engineering investigation (November 18, 2019) included a site reconnaissance and literature review pertaining to soil conditions and site geology, and a subsurface investigation and laboratory testing program. NV5 concluded, in their opinion, that the inferred fault, identified on the property in Map 85-7, does not qualify as a seismically active area as defined by Nevada County LUDC Sec. L-II 4.3.8.B. The County independent geotechnical peer review consultant for the proposed project, ECM, concluded based on available mapping and literature, that a fault likely does exist somewhere in the vicinity of the Brunswick Site, though not necessarily on-site. For example, the 1992 Geologic Map of the Chico Quadrangle (CA DOC, Saucedo and Wagner) locates a fault only approximately somewhere within the valley formed by the South Fork of Wolf Creek, and the 1990 Special Report 164, State Map DRG SM-164 (CA DOC, Division of Mines and Geology) shows the inferred fault on the east side of Brunswick Road. The question then arises as to whether it might have been active in recent times. NV5 believes the feature formed during the Mesozoic era, at least 65 million years ago. They consider it inactive and designate it as a Type C fault zone “with a low seismicity and a low rate or occurrence”. Based on ECM’s knowledge of the geology of the area, they are in agreement with NV5’s conclusion, and no evidence has been found that suggests there might have been any recent fault movement in the general site area.

As the most recent evidence, both surface and underground miners have been working in the Grass Valley area at the various mines since the mid 1860's provides over 150 years of observation. ECM has found no records that indicate that any movement has occurred on any faults at or near the site. This conclusion is also consistent with the conclusions reached by the State of California as related to Earthquake Zones, as shown on the California Earthquake Zone Database.

Therefore, based on available scientific evidence, the DEIR concludes that the proposed Project development within the designated building setback fault zone is generally feasible from a geotechnical engineering standpoint, provided that the recommendations presented in the Project geotechnical engineering report (NV5; November 18, 2019) are incorporated into the Project plans. These recommendations are required by Mitigation Measure 4.6-1, which generally specify slope design and building foundation criteria.

As a result, the project includes a request to amend the Final Map for Bet Acres recorded in February 1987 in Book 7 of Subdivision Maps at Page 75 to remove the "200' Building Setback From Fault", as shown on Sheet 4 of Final Map #85-7. The amended Final Map is shown in Figure 3-20 of the DEIR Project Description chapter and Attachment 10 to this staff report.

7. Rise Grass Valley Inc. Floodplain Management Plan for Centennial Industrial Site of the Idaho-Maryland Mine Project:

The Federal Emergency Management Agency (FEMA) has identified the 100-year frequency floodplain along Wolf Creek, a perennial stream, in Nevada County. Wolf Creek flows in a westerly direction across the northern boundary of the Centennial Site. A Flood Insurance Rate Map (FIRM), an official map of a community, was developed for Nevada County and Grass Valley in the vicinity of the Centennial Site with an effective date of 02/03/2010 (FEMA, 2020). The FIRM delineates both the Special Flood Hazard Areas (SFHA) and the risk premium zones applicable. The proposed development of the Centennial Industrial Site for the Idaho-Maryland Mine Project has been designed to remain outside the limits of the 100-year floodplain or SFHA. However, the Nevada County LUDC Chapter II: Zoning Regulations, Sec. L-II 4.3.10 requires that for projects with development within 100 feet of the limits of the 100-year floodplain, a Floodplain Management Plan shall be prepared that minimizes impacts to the floodplain. Approximately 0.55-acre of the engineered fill placement on the Centennial Site, and construction of a concrete V-ditch located on the northeast corner of the Centennial Site, would encroach into the County of Nevada mandated 100-foot zone beyond the 100-year floodplain limit, necessitating a Floodplain Management Plan. It is noted that an existing private driveway is located at the northwest corner of the site, within the 100-year floodplain and associated 100-foot setback zone. However, the project does not include improvements to the existing driveway.

The conclusions and recommendations provided in the Floodplain Management Plan, required by DEIR Mitigation Measure 4.8-5, include:

- Grading and land disturbance within the limits of the SFHA (100-year floodplain) of Wolf Creek should be avoided:

- The 100-year floodplain boundary should be delineated by appropriate means on Centennial Site prior to construction commencing to ensure that construction activities remain outside the 100-year floodplain;
- Any temporary disturbance of ground by construction within 100 feet of the 100-year floodplain, that is outside the designed development, should be mitigated by regrading to emulate the original ground contours;
- Sediment and erosion control measures, in accordance with industry accepted Best Management Practices (BMPs), should be maintained during the grading operation at all times and permanent sediment and erosion control measures should be installed upon completion of grading; and

As early as practicable once the engineered fill operation has begun, the detention basin proposed in the Preliminary Drainage Analysis & Detention Study by Nevada City Engineering, Inc. should be installed and made operational. During the grading operation, sediment and erosion control measures should be maintained in place on the fill pad to avoid silt and runoff from the pad proceeding over the slope toward the stream below, and to direct runoff to the detention basin which is to be constructed at the northwest corner of the fill area. During this time runoff from the engineered fill pad area should concurrently be directed to this basin for both its detention and de-siltation benefits.

Other Discretionary Approvals:

City of Grass Valley:

- Encroachment Permits (COA K.4)

Northern Sierra Air Quality Management District (NSAQMD)

- Authority to Construct Permit (Local district rules per Health and Safety Code 42300 *et seq.*). (COA I.2)

Nevada Irrigation District (NID):

- Provision of water service to the project sites. (COA J.5)

Central Valley Regional Water Quality Control Board (RWQCB):

- General Construction Activity Stormwater Permit, Notice of Intent (40 CFR Part 122), National Pollutant Discharge Elimination System Permit (33 USC 121 *et seq.*), Water Discharge Permit (Water Code 13000 *et seq.*), Storm Water Pollution Prevention Plan, Water Quality Certification. (MMs 4.4-3(c), 4.6-2, 4.7-2(a), and 4.8-1(a) through (e))

State Office of Historic Preservation (if needed):

- Section 106, National Historic Preservation Act (16 USC 470; 36 CFR 62; 36 CFR 65). (COA A.23)

Advisory Council on Historic Preservation (if needed):

- Section 106 (National Historic Preservation Act, 16, USC 470); Designation Survey, Determination of Effort. (COA A.23)

California Department of Fish and Wildlife:

- Lake/Streambed Alteration Agreement, Incidental Take Permit (MMs 4.4-1 (a and b), 4.4-2 (a and g), and 4.4-3(b and d)).

California Occupational Safety and Health Administration (Cal-OSHA):

- Annual Permit, Construction Permit. (COA A.23 and MM4.7-1(a))

California Department of Transportation (Caltrans):

- Encroachment Permits. (COA I.4)

California Department of Toxic and Substances Control (DTSC)

- Verification of proper disposal of mine waste and Letter of No Further Action. (COA A.21, and MM4.7-2(a))

United States Army Corps of Engineers (USACE):

- Individual/Nationwide Section 404 Discharge Permit (Clean Water Act, 33 USC 1341) and Verification of Wetland Delineation. (MM 4.4-3(a and c))

United State Fish and Wildlife Service:

- Biological Assessment, Section 7 Consultation, Biological Opinion (Endangered Species Act 16 USC 1531-1544). (MMs 4.4-21(a and b) and 4.4-2(c))

Bureau of Alcohol, Tobacco and Firearms:

- Purchase, Storage or Transportation of Explosives Permit (29 CFR). (MM 4.7-1(a))

Mine Safety and Health Administration:

- Notice of Commencement of Operations, Record of Inspection of Self-Propelled Equipment, Record of Testing of Electrical Ground System, Miner Training Program, MSHA Identification Number. (COA A.32 and MM4.7-1(a))

DEVELOPMENT AGREEMENT:

As previously discussed, the applicant proposes to enter into a Development Agreement with the County. The Development Agreement would support the existing County framework for how the Use Permit and Reclamation Plan would apply to the mining and reclamation phasing of the project. The Development Agreement would also establish the necessary processes for the payment of Cents Per Ton to the County and City for roadway maintenance.

The Development Agreement would assure, for the applicant and Nevada County, that the Project can proceed consistent with the Nevada County's General Plan, Nevada County LUDC Section L-II 5.18 Development Agreements, Government Code sections 65867, et. seq., and all other applicable ordinances, plans, policies and regulations of Nevada County without disruption caused by material future change in County planning and development policies and requirements over the life of the Idaho Maryland Mine Quarry Use Permit. Except for specific provisions identified in the Development Plan that relate to public health, safety and welfare, the protections of reassurances and any other provisions set forth in the Development Agreement. The proposed Development Agreement would remain in effect for 20 years, with the possibility of two (2) 10

year discretionary extensions of time, unless terminated earlier, as provided within the Development Agreement. (Attachment 19)

Benefits to the public provided by the Development Agreement include the following:

- Ophir Hill Fire Protection District Equipment: To off-set Fire engine and associated equipment via a lump sum payment of \$1,000,000 at the commencement of mine dewatering and funding for three additional full-time personnel for the Ophir Hill Fire Protection District, up to \$240,000 per year (adjusted for CPI Index based dollars in January 2022) at the commencement of Commercial Production.
- Provision for providing an area for the 24/7 access and use of a Helicopter landing pad at the terminus of the east most access road at the Brunswick Site. This will only be used for medically based incidents that warrant an Medivac of critical patients within the general area. The landing pad is preferred to be paved 40-foot by 40-foot in approximate size, which will accommodate a type 2 helicopter. The landing pad will not be required to be lighted or marked. The landing pad shall remain clear of obstructions in a 100 Ft radius at all times.
- Provision for providing land and facilities at Brunswick Industrial Site for staging of emergency services during fires or natural disasters in the surrounding area.
- Provision for providing, at the applicants own cost a twenty-four- (24) person professional mine rescue teams, tradespeople (electricians, mechanics, millwrights), engineers, and professional managers to assist emergency services during fires or natural disasters in the surrounding area.
- Provision for providing increased fire protection along Brunswick Road through installation of fire hydrants concurrently with potable water line extension proposed for the Project.
- Placement of a Knox lock or equivalent locking mechanism to the satisfaction of County fire officials on all mine gates. Property Owner shall allow for emergency ingress and egress through the site in the event of a traffic accident on Brunswick Road requiring a bypassing of that section of road or in order to access emergency helicopter landing onsite.
- Property Owner will construct and dedicate to the Nevada Irrigation District a potable water line to approximately thirty (30) properties in addition to the 7 properties identified by the EIR as potentially susceptible to well draw-down.
- If the voluntary clean-up of the Centennial property is approved by DTSC and all other regulatory agencies, Property Owner will fund and commence Centennial site remediation prior to the start of commercial production of the Project.

- Provision for providing funding for one (1) Air Pollution Control Specialist full time staff person for the Northern Sierra Air Quality Management District, up to \$100,000 per year (adjusted by the CPI Index based on equivalent dollars in January 2022) at the commencement of Mine Dewatering and this provision shall survive the termination of the Development Agreement.

ENVIRONMENTAL REVIEW PROCEDURAL COMPLIANCE:

A Draft EIR has been prepared for the proposed Idaho-Maryland Mine Project in accordance with the California Environmental Quality Act (CEQA) of 1970, Public Resources Code (PRC) §§ 21000-21178, as amended, and the Guidelines for Implementation of the California Environmental Quality Act, California Code of Regulations (CCR) Title 14, §§ 15000-15387 (CEQA Guidelines). The County of Nevada is the CEQA lead agency for the environmental review of the proposed project and has the principal responsibility for approving the project.

In accordance with CEQA, the DEIR was sent to the State Clearinghouse (SCH# 2020070378) for distribution to State agencies. The public review period began on January 4, 2022, for a 60-day public review period, which was extended to April 4, 2022, for a total public review period of 91 days. In addition, the DEIR, and Notice of Availability (NOA) for the DEIR were published on the Nevada County Community Development Agency website. Printed copies of the DEIR were made available for public review at the Nevada County Planning Department (950 Maidu Avenue, Suite 170, Nevada City, CA), as well as the following library locations: Madelyn Helling Library (980 Helling Way, Nevada City, CA); Grass Valley Library – Royce Branch (207 Mill Street, Grass Valley, CA); Penn Valley Library (11252 Pleasant Valley Road, Penn Valley, CA); and Truckee Library (10031 Levon Avenue, Truckee, CA). A Special Public Meeting before the Nevada County Planning Commission was held on March 24, 2022, to solicit public comments regarding the DEIR.

The EIR identified that the project has the potential to create significant and unavoidable impacts for the following resources: Aesthetics (Visual Character); Noise (substantial temporary increase in ambient noise levels); and Transportation and Circulation (significant impact to intersections). The identified Project-level Aesthetics and Transportation impacts are also both cumulatively considerable and significant and unavoidable. Feasible mitigation measures were provided for all other identified potential environmental impacts of the project.

CEQA guidelines allow for the Board of Supervisors in its decision-making responsibility to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide benefits, of the proposed project and find that these other considerations outweigh the unavoidable adverse environmental effects. Through the adoption of the Finding of Facts and Statement of Overriding Considerations, the adverse environmental effects can be considered acceptable. The required findings, statement of overriding considerations and the mitigation monitoring and reporting program, are included in Attachment 2.

Public Comments During Draft EIR Public Review Period

During the public review period on the DEIR, Nevada County received 12 comment letters from agencies, 32 letters from groups, and 2,821 individual comment letters. In addition, verbal

comments were received at the Special Public Meeting, and six comment letters were received shortly after the close of the public comment period. All comments received have been addressed in the Final EIR, which was released to the public for review on December 16, 2022. Pursuant to CEQA Guidelines Section 15132, the Final EIR consists of:

- (a) The draft EIR or a revision of the draft.⁵
- (b) Comments and recommendations received on the draft EIR either verbatim or in summary.
- (c) A list of persons, organizations, and public agencies commenting on the draft EIR.
- (d) The responses of the Lead Agency to significant environmental points raised in the review and consultation process.
- (e) Any other information added by the Lead Agency.

All public comments received during and shortly after the public comment period were addressed within the FEIR and non-material update revisions to the DEIR text were made. These revisions are included in Chapter 3 of the Final EIR, Revisions to the DEIR Text. Although numerous revisions were made, none of the revisions were material, nor did they alter the adequacy of the analyses, notice, or conclusions made in the DEIR. No recirculation was warranted because no significant new information was added as defined under CEQA. Pursuant to CEQA Guidelines Section 15088.5, Recirculation of an EIR Prior to Certification, a lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. New information added to an EIR is not “significant” unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project’s proponents have declined to implement. A detailed explanation of CEQA Guidelines Section 15088.5 is provided in Chapter 1 of the FEIR (Attachment 15).

Alternatives Evaluated:

Pursuant to CEQA Guidelines Section 15126.6(a), alternatives to the project must be capable of feasibly attaining most of the basic objectives of the project. The project applicant has identified the following objectives for the proposed project:

1. Construct a commercially viable, financeable, major underground gold mine operation that will produce 1,000 tons per day (365,000 tons per year) of gold mineralization.

⁵ Because the Final EIR technically includes the Draft EIR, pursuant to CEQA Guidelines Section 15132, there is no requirement, nor need to include with the separately bound responses to comments document the same technical appendices that were provided with the Draft EIR.

2. Locate the project on property that Rise Grass Valley, Inc. owns that provides an existing access to the underground workings.
3. Utilize existing underground access points to limit new aboveground and underground surface disturbance.
4. Locate the facilities necessary to support dewatering, mining, and processing on land historically disturbed and zoned for similar industrial type uses.
5. Locate the majority of project facilities within a large property holding to provide buffer areas and minimize the potential for adverse environmental effects on neighboring properties.
6. Provide property owners along East Bennett Road a reliable and clean potable water source from the NID.
7. Provide jobs that provide a fair living wage for educated and skilled workers.
8. Increase the usable land area at the Centennial Industrial Site to allow its future use as industrial land.
9. Increase the usable land area at the Brunswick Industrial Site to allow its future use as industrial land.
10. Minimize impacts to wetlands, vernal pools, and other special-status species habitat located on the Brunswick and Centennial Industrial sites and, to the extent feasible, mitigate any such impacts identified.

Section 6 of the DEIR considered project alternatives. As summarized in DEIR section 6.2, and provided in CEQA Guidelines section 15126.6, an EIR shall provide a reasonable range of alternatives that achieves the project objectives but avoids or reduces significant project impacts. The alternatives analysis is not required to consider every project alternative but is governed by a “rule of reason” that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice.” The alternative analysis in the DEIR considered nine different alternatives. Five alternatives were considered but rejected from detailed analysis since they did not meet most project objectives, were infeasible, and/or did not avoid significant project impacts. Four alternatives were analyzed in detail (see DEIR section 6.3.) The County believes this provides a reasoned choice of alternatives for consideration by the public and decisionmakers.

The following alternatives analyzed in the DEIR for a comparison of environmental impacts. The DEIR also examined whether the project objectives would be met by each alternative.

- *Alternative 1: No Project (No Build) Alternative*

The No Project (No Build) Alternative assumes that the Brunswick Industrial Site would remain in its current condition and would not be further developed. The alternative also assumes that the Centennial Industrial Site will be separately remediated under DTSC

oversight, but otherwise remain undeveloped. The No Project (No Build) Alternative would not meet any of the project objectives.

- *Alternative 2: Elimination of Centennial Industrial Site and Expansion of Brunswick Fill Pile*

The project proposes to transport and place approximately 1,600,000 tons of engineered fill at the Centennial Industrial Site in order to create 31 acres of flat usable industrial land at that site for potential future use, subject to additional environmental review and permitting. The Centennial Industrial Site could be excluded from the proposed project as the equivalent amount of engineered fill could be placed by increasing the height of the planned engineered fill area at the Brunswick Industrial Site.

This alternative would eliminate the Centennial Industrial Site, and any related impacts, entirely from the IMM Project. The indirect economic benefit from the creation of 52 acres of flat industrial land would be lost (31 acres of flat industrial land at the Centennial Industrial Site and 21 acres at the Brunswick Site – Brunswick acreage included here because the final pad configuration under this alternative would not be conducive to future development).

Project Objectives 1 through 7 and 10 would be achieved with this alternative and operating costs decreased due to the elimination of trucking from the Brunswick to Centennial Industrial Site. Project Objectives 8 and 9, related to increasing usable land for future industrial use at the Centennial and Brunswick Industrial Sites, respectively, would not be achieved.

The design of the engineered fill pad at Brunswick Industrial Site slopes from a final elevation of approximately 2,830 ft mean sea level (msl) at the hillside to an elevation of 2,820 ft msl at the crest of the pad. The engineered fill pad at the Brunswick Industrial Site is designed to maximize usable area after construction. Alternative 2 would continue placing fill within the existing footprint to an elevation of ~2,880 ft msl. The placement of this additional fill would add additional volume of approximately 30 million ft³, or approximately 1.7 million tons, and allow for the replacement of storage lost from the elimination of the Centennial Industrial Site. The additional fill would have an area at the base elevation at 2,830 ft msl of approximately 18.5 acres and at the top 2,880 ft msl elevation of approximately 6.5 acres. The fill pad may be more visible through the buffer of trees from nearby properties but would still be below the elevation of residences on neighboring properties. The trees screening public views of the property from Brunswick Road would remain and obscure the visibility of the expanded fill pile from the roadway. The intensity of activity related to construction of the larger engineered fill pad under this Alternative would not increase, but the duration of the activity would be lengthened due to the increase in material volume. Other aspects of the proposed project would remain unchanged.

This alternative could result in fewer impacts to all resource categories, with the exception of Hazards and Hazardous Materials, which would likely result in similar impacts as the proposed project.

- *Alternative 3: Expansion of Centennial Fill Pile and Elimination of Brunswick Fill Pile*
The proposed project includes the placement of approximately 2,200,000 tons of engineered fill at the Brunswick Industrial Site in order to create 21 acres of flat usable industrial land at that site. The equivalent amount of engineered fill could be placed by increasing the height of the planned engineered fill area at the Centennial Industrial Site.

Alternative 3 would eliminate the engineered fill pile at the Brunswick Industrial Site, and any related impacts, from the proposed project, while the Centennial engineered fill pile would be higher with reduced usable area. The indirect economic benefit from the creation of 19 acres of flat industrial land would be lost. (18 acres of flat industrial land in alternate plan versus 31 acres in base plan at the Centennial Industrial Site and 15 acres of flat industrial land in alternate plan versus 21 acres in base plan at the Brunswick Industrial Site).

This alternative would fully meet Project Objectives 1 through 7 and 10; however, operating costs would increase due to the additional trucking from the Brunswick to Centennial Industrial Site. Project Objectives 8 and 9, related to increasing usable land area at the Centennial and Brunswick Industrial Sites to allow future industrial use, while being met with this alternative, would be better met by the proposed project. This is because the proposed project would create 31 acres of land suitable for future industrial use at Centennial, whereas this alternative would create 18 acres. Similarly, the project would create 21 acres of land suitable for future industrial use at Brunswick, whereas this alternative would create 15 acres.

The design of the engineered fill pad at Centennial Industrial Site slopes from a final elevation of approximately 2,560 ft msl at the east side to an elevation of 2,520 ft msl at the west side. The engineered fill pad at the Centennial Industrial Site is designed to maximize usable area after construction. The Alternative 3 plan would continue placing fill within the existing footprint to an elevation of approximately 2,580 ft msl. The placement of this additional fill would add additional volume of approximately 41 million ft³, or approximately 2.3 million tons, and allow for the replacement of storage lost from the elimination of the fill pile at Brunswick Industrial Site. The additional fill would have an area at the top 2,580 ft msl elevation of approximately 17.8 acres.

This Alternative could be considered to have similar or slightly fewer aesthetic impacts as compared to the proposed project, given it would reduce the severity of significant aesthetic impacts at the Brunswick Industrial Site, but substantially increase the severity of the significant aesthetic impact at the Centennial Industrial Site. Impacts of Alternative 3 to noise and transportation would be slightly greater when compared to the proposed project. The impacts to air quality and greenhouse gas emissions, hazards and hazardous materials, and hydrology and water quality would be similar to the proposed project. The impacts to

biological resources, cultural and tribal cultural resources, geology and soils, and wildfire would be fewer when compared to the proposed project.

- *Alternative 4: Reduced Throughput*

A reduced throughput alternative would reduce the proposed mine's production of 1,000 tons per day (365,000 tons per year) of gold mineralization to 500 tons per day (182,500 tons per year) of gold mineralization. The underground mining methods and aboveground production methods and facilities would remain substantially similar. Some reductions in equipment type, size, and numbers may occur but it would not result in a substantially different footprint than the proposed project. The life of the mine would be extended from 80 years to between 130-160 years to accommodate reduced daily and annual tonnage and still allow the underground resources to be fully developed. In addition, the proposed engineered fill pads on both the Centennial and Brunswick Industrial Sites would still be constructed, as proposed, but it would take approximately double the amount of time, from 5-6 years to 10-12 years, for each stockpile area to reach the proposed design capacities and elevations.

This alternative would fully meet Project Objectives 2 through 6, and 8 through 10. Project Objective 1 would not be met by this alternative. Based on the deposit, project's location and land use constraints, market conditions, and various other factors, the project's proposed 1,000 tons per day production level was identified as an optimum operating level. A substantial reduction in throughput would not meet Project Objective 1 and would change the project's economics and ability to be financed. This would impact the number of employees hired (Project Objective 7), the speed at which capital improvements could be made, and extend the life of the project. In addition, this would significantly delay rehabilitating the Centennial Industrial Site and increasing the usability of the Brunswick Industrial Site to a future use of industrial.

Alternative 4 would result in similar impacts to aesthetics, biological resources, cultural and tribal cultural resources, geology and soils, transportation, and wildfire when compared to proposed project. Impacts to hydrology and water quality and noise could be greater than the proposed project. Impacts to air quality and greenhouse gases, hazards and hazardous materials, could be fewer than the proposed project.

Environmentally Superior Alternative

The No Project (No Build) Alternative would be the environmentally superior alternative. Under this Alternative, the mine would not be operated at the Brunswick Industrial Site. In general, no significant project-related impacts to the physical environment would occur under this Alternative. However, CEQA requires an alternative other than the No Project Alternative be selected as environmentally superior.

The EIR determined that the proposed project would result in significant environmental impacts to 10 CEQA resource categories/topics before mitigation. After mitigation only two categories of significant impacts remain. Alternative 2 would reduce the project's significant environmental impacts in nine of the 10 categories. Alternatives 3 and 4 would not reduce as many impacts, and

in two cases, impacts would be greater when compared to the proposed project. Alternative 2 would also achieve eight of the ten project objectives. For these reasons, Alternative 2 would be considered the environmentally superior alternative.

POTENTIAL IMPACTS AND MITIGATION MEASURE SUMMARY:

Below is a discussion of a summary of the potential impacts as they were analyzed in the EIR. The full mitigation measures required of the project are include in the Mitigation and Monitoring and Reporting Program in Attachment 1, Exhibit A, and required as Condition of Approval A.6. For the benefit of the Planning Commission, following the below discission is Table 6, which contains a general summary of the CEQA Significant Impacts.

Aesthetics:

The EIR determined that a less-than-significant impact would occur related to substantial adverse effects on scenic vistas and creation of new sources of substantial light or glare.

Impact 4.1-2 of the EIR addresses the potential for the proposed project to substantially degrade the existing visual character or quality of the site and its surroundings. 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.

Mitigation Measure 4.1-2 would reduce the significant impact by requiring more dense plantings along the project frontages to screen project structures to the maximum extent feasible. However, given the proposed heights of the structures and the permanent alteration of the views, the impact would remain significant and unavoidable.

The EIR also found (Impact 4.1-4) that cumulative buildout in the geographic area would result in a change in the visual character of the region, which would be considered a significant cumulative impact. As discussed under Impact 4.1-2 above, the proposed project would substantially degrade the character of the Centennial and Brunswick Industrial Sites, though they are zoned for industrial development and there are surrounding industrial land uses in the vicinity of the project sites. Therefore, the project's incremental contribution to the significant cumulative impact would be cumulatively considerable and significant and unavoidable.

Air Quality, Greenhouse Gas Emissions:

The EIR determined that a less-than-significant impact would occur related to resulting in emissions (such as those leading to odors) adversely affecting a substantial number of people. The EIR also determined that a less-than-significant impact would occur related to inefficient or

wasteful use of energy and conflicts with a state or local plan for renewable energy or energy efficiency. In addition, with the exception of greenhouse gas emissions, all cumulative impacts were determined to be less than significant or less than cumulatively considerable.

The EIR determined that implementation of the proposed project could result in a conflict with implementation of the applicable air quality plan through generation of construction and operational criteria pollutant emissions that would exceed the Northern Sierra Air Quality Management District's (NSAQMD) applicable thresholds. In addition, the project could result in emissions of asbestos dust related to on-site ground disturbing activities having the potential to expose receptors to substantial concentrations of asbestos. With respect to greenhouse gas (GHG) emissions, the proposed project could result in a significant impact during the construction period. However, the EIR requires mitigation in order to ensure that the aforementioned impacts are reduced to less-than-significant levels.

Mitigation Measure 4.3-1(a-b) includes the use of mitigation measures from the Northern Sierra Air Quality Management District and requires the submittal of a Construction Exhaust Emissions Minimization Plan to Nevada County or its designated representative for review and approval.

Mitigation Measure 4.3-2 would require the submittal of an Asbestos Dust Mitigation Plan (ADMP) to Northern Sierra Air Quality Management District (NSAQMD) for review and approval.

This plan must be approved by the Northern Sierra Air Quality Management District before commencement of clearing or grubbing. The ADMP has minimum requirements as described in the mitigation measure, regulated by the Asbestos ATCM for Construction, Grading, Quarrying and Surface Mining Operations [17 CCR 93105]). Notably, compliance with the CARB ATCMs for naturally occurring asbestos, including development of an ADMP, is the standard approach within CEQA documents to address health concerns associated with exposure to asbestos from unpaved surfaces, construction and grading operations and quarries where asbestos is found or likely to be found in order to ensure potential health risk impacts to the public would be minimized to a less than significant impact. Multiple other projects in the NSAQMD jurisdiction, as well as throughout the state, have relied upon compliance with these naturally occurring asbestos ATCMs in order to control any potential asbestos emissions to the extent possible.

The potential presence of asbestos in underground rock is also being addressed by the project through an Asbestos, Serpentine, and Ultramafic Rock (ASUR) Management Plan. Prior to underground gold mining, intensive planning efforts will be conducted as required under the ASUR Plan and as required to meet state and federal regulations and achieve safety, environmental, and economic goals. Please see Section 6.0 of the ASUR Plan (Appendix E.2 of the DEIR). Underground mine planning, as required in the ASUR Plan, includes exploratory drilling, geologic mapping, material logging, and testing. These same processes also ensure future mining operations avoid and manage rock types that may contain naturally occurring asbestos to ensure that applicable thresholds are not exceeded. In other words, the mandatory mine planning that is required by the DEIR in the ASUR Plan will provide information to the mine operator on asbestos content of rock prior to mining that area. This is a standard component of modern

underground mine planning, and was made an explicit requirement of the ASUR Plan, which will be required through a Condition of Approval (A.32 – APM-AQ-3).

Mitigation Measure 4.3-7(a-b) includes specific measures to reduce construction greenhouse gas emissions and implementation of carbon offsets for reducing construction impacts to air quality.

Biological Resources:

The EIR determined that impacts related to interfering substantially with the movement of native resident or migratory wildlife, and conflicts with local policies or ordinances protecting biological resources would be less than significant.

The EIR determined that implementation of the proposed project could result in potential significant adverse effects to special-status plants at both the Centennial and Brunswick Industrial Sites; foothill yellow-legged frog, western pond turtle, California red-legged frog, California black rail, California spotted owl, coast horned lizard, special-status bats, and non-special status raptors and migratory birds at both Sites; and aquatic resources on both Sites that are subject to regulatory agency jurisdiction. However, the EIR requires mitigation in order to ensure that impacts related to the aforementioned biological resources would be reduced to less-than-significant levels.

Mitigation Measure 4.4-1(a-b) would implement measures for the protection of the Pine Hill Flannelbush. Such measures include:

- Seed collection for seed banking and future replacements and recovery efforts;
- Development of a transplantation plan and monitoring plan to include locations for dormant season relocation, site selection for transplanting, and metrics of successful establishment;
- The transplantation of individual Pine Hill flannelbush that fall within the disturbance footprint to another site with similar environmental conditions;
- Transplantation monitoring every month for the first six months, then subsequently, every two months for the first two years;
- habitat enhancement of Pine Hill flannelbush habitat outside of the disturbance footprint; and
- The recording of a conservation easement for the on-site Pine Hill flannelbush avoidance area, or use of a similar land protection mechanism that runs with the land in perpetuity to protect the Pine Hill flannelbush individuals within the disturbance footprint.

Mitigation Measure 4.4-2(a-g) includes measures such as pre construction surveys, avoidance, and minimization techniques to reduce impacts to Foothill yellow-legged frog, western pond turtle, California red-legged frog, California black rail, coast horned lizard, special-status bats, California spotted owl, and nesting birds.

Mitigation Measure 4.4-3(a-c) includes the implementation of the Watercourse/Wetlands/Riparian Areas Management Plan, coordination with the U.S. Army Corps of Engineers, and avoidance of waters of the U.S. or jurisdictional waters of the State of California.

Cultural and Tribal Cultural Resources:

The EIR determined that impacts related to disturbing human remains would be less than significant. In addition, all cumulative impacts were determined to be less than significant.

The EIR determined that, at both Sites, implementation of the proposed project could result in a significant impact to unknown archaeological resources and Tribal Cultural Resources, as defined in Public Resources Code, Section 21074. In addition, the EIR determined that the project would have a significant adverse effect on the underground workings of the Idaho-Maryland Mine. However, the EIR requires mitigation in order to ensure that impacts related to cultural resources would be less than significant.

Mitigation Measure 4.5-1(a-b) requires the project applicant share all historical documentation of the Idaho-Maryland Mine Company in their possession with the public through one of the following libraries: the California State Library, the California Geology and Mining Library, or the Searls Library. The project applicant shall also retain a qualified historian meeting the Secretary of the Interior's standards, to perform a historical study of the underground mine workings in the areas deemed safe by a certified mining geologist.

Mitigation Measure 4.5-2 establishes the procedures should any cultural resources be discovered during construction or mining activities.

Mitigation Measure 4.5-3 establishes the procedures should any person discover human remains within the project area.

Geology and Soils:

The EIR determined that impacts related to directly or indirectly destroying a unique paleontological resource or unique geologic feature, and loss of availability of mineral resources would be less than significant. In addition, cumulative impacts were determined to be less than significant.

The EIR determined that implementation of the proposed project could result in significant impacts related to the following geology and soils issues at both Sites: soil erosion related to stockpiles, engineered fill slopes, and general site disturbance during construction; presence of undocumented fill; and thin lenses of expansive soils. In addition, within off-site areas at the industrial complex south of Idaho Maryland Road and north of Whispering Pines Lane, near surface geotechnical features need to be closed so as to ensure that collapse would not result during dewatering of the mine.

Significant geology issues specific to the Centennial Industrial Site include the safety concern related to the presence of the South Idaho Shaft.

Significant geology issues specific to the Brunswick Industrial Site include potential seismic hazards at the Brunswick Industrial Site; slope stability associated with temporary steep cut slopes at the new service shaft collar; and an unstable portion of the clay-lined pond dam.

The EIR requires mitigation in order to ensure that the aforementioned impacts are reduced to less-than-significant levels.

Mitigation Measure 4.6-1 requires the incorporation of the design recommendations from the Brunswick Industrial Site Geotechnical Report into the Plans.

Mitigation Measure 4.6-2 requires the incorporation of the mitigation measures and the Best Management Practices included in the Management Plans for Steep Slopes and High Erosion Potential for both the Brunswick Industrial Site and the Centennial Site into the final Improvement Plans.

Mitigation Measure 4.6-3(a-c) requires the submittal of a final geotechnical engineering report, a final grading plan, slope stability analysis, and a physical closure evaluation of a number of near mine features.

Mitigation Measure 4.6-4 requires the submittal of a complete sewage disposal design report for review and approval by the Nevada County Environmental Health Department (NCEHD).

Hazards and Hazardous Materials:

The EIR determined that the proposed project would result in a less-than-significant impact related to being located within an airport land use plan and creating a safety hazard or excessive noise for people residing or working in the project area. The EIR also determined that the proposed project would not result in a significant impact related to creating a significant hazard through reasonably foreseeable upset and accident conditions involving the likely release of hazardous materials into the environment related to the Centennial Industrial Site, given the post-remediation baseline condition.

Potentially significant hazards identified on the Brunswick Industrial Site include elevated arsenic in the southeastern paved area, potential residual petroleum contamination in a few locations, and presence of groundwater monitoring wells of unknown status. However, the EIR requires mitigation in order to ensure that the aforementioned impacts are reduced to less-than-significant levels.

The EIR also determined that the proposed project could have a significant impact related to creating a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials, specifically, the transport, underground storage, and use of explosives at the Brunswick Industrial Site. Upon delivery to the project site, explosives and detonators would be immediately transported underground and placed in separate magazines pursuant to 29 Code of Federal Regulations (CFR) 1926.904, subdivision (b), and 8 CCR 5251, subdivision (a). The explosives and detonators would be moved and stored underground in auxiliary facilities - they would not be stored on the surface. The auxiliary facilities would be located in an area of the underground mine suitable for such storage use, and would consist of wooden, box-type containers equipped with covers or doors, or facilities constructed or mined-out to provide equivalent impact resistance and confinement so as to comply with 30 CFR 57.6161, subdivision (a). The auxiliary facilities will be located in such a way so as to ensure that escape

routes are not obstructed, and will be located a safe distance from underground workings, tunneling and construction operations, shafts, electrical wiring, and combustible rubbish, as is required by 29 CFR 1926.904, 30 CFR 57.6161 and 8 CCR 5258.

The Hazardous Material Inventory Statement for Brunswick provides that a maximum of 28,000 pounds of explosives will be stored underground. Rise intends to use approximately 0.93 tons of explosives and approximately 257 detonators per day to facilitate Rise’s mining operations at the Brunswick Industrial Site. Implementation of the mitigation measures required in the EIR would reduce the impact to a less-than-significant level.

Mitigation Measure 4.7-1(a-d) requires the mine operator to comply with all applicable federal and state regulations governing the transport, underground storage and use of explosives, as well as requiring the mine operator prepare a Risk Assessment, and ensure that the transport of explosives is conducted in a manner consistent with all applicable regulations and guidelines. The mine operator shall also prepare a Hazardous Materials Business Plan to be reviewed and approved by the County.

Mitigation Measure 4.7-2(a-c) establishes the requirements and procedures that shall be followed should the proposed project disturb the mine waste beneath the southeastern paved area within the Brunswick Industrial Site, or if contaminated soil or groundwater is found. In addition, the measure requires the applicant to obtain a well abandonment permit from the NCEHD for any wells that will not be used on the project site.

Hydrology and Water Quality:

The EIR determined that the proposed project would result in a less-than-significant impact related to conflicting with or obstructing implementation of a water quality control plan or sustainable groundwater management plan. In addition, cumulative impacts were determined to be less than significant.

The EIR determined that implementation of the proposed project could result in potential construction and operational impacts related to water quality (e.g., Centennial Industrial Site: engineered fill pad construction; Brunswick Industrial Site: operations within industrial area, underground placement of Cement Paste Backfill, use of clay-lined pond for water treatment process purposes, engineered fill pad construction, treated water discharge in South Fork Wolf Creek). In addition, the proposed project would result in substantial reduction in groundwater supplies; substantial alteration of drainage patterns; and for the Centennial Industrial Site, risk release of pollutants in flood hazard area. However, the EIR requires mitigation in order to ensure that impacts related to hydrology and water quality are reduced to less-than-significant levels.

Mitigation Measure 4.8-1(a-e) requires the project applicant to submit a Notice of Intent to the Central Valley Regional Water Quality Control Board (RWQCB) for coverage under the Limited Threat Discharge permit and Construction General Permit for both sites, and prepare a Construction Stormwater Pollution Prevention Plan (C-SWPPP), along with requiring the applicant acquire other necessary entitlements.

Mitigation Measure 4.8-2(a-c) requires the implementation of the Groundwater Monitoring Plan and the Well Mitigation Plan as approved by Nevada County. This measure also establishes the applicant's responsibility to provide a comparable water supply to homes or business, should it be found that the mining operations are resulting in a significant impact to any wells.

Mitigation Measure 4.8-3 requires the submittal of a Final Drainage Report to the Nevada County Planning Department for review and approval.

Mitigation Measure 4.8-5 requires the implementation of the Floodplain Management Plan prepared for the Centennial Industrial Site, as approved in its final form by Nevada County.

Noise and Vibration:

The EIR determined that a less-than-significant impact would occur related to generation of excessive ground borne noise levels. A less-than-significant impact would also occur related to exposing people residing or working in the project area to excessive aircraft noise. In addition, cumulative impacts were determined to be less than cumulatively considerable.

The EIR determined that the project could result in a substantial permanent increase in ambient noise levels in the vicinity of the project due to haul truck traffic should Jake brakes be used. In addition, the EIR conservatively concludes that the combined operational noise sources at the Brunswick Industrial Site could result in a significant noise impact. With respect to vibration, the EIR determined that while blasting is not projected to exceed applicable thresholds, a ground vibration monitoring program should be implemented to determine the actual levels of ground vibration at commencement of mining, and if necessary, implement additional protective measures. The EIR requires mitigation in order to ensure that the aforementioned impacts are reduced to a less-than-significant level.

The EIR determined that during construction activities, the project could result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity (i.e., residents along East Bennett Road during construction of the potable water line). Even with implementation of mitigation, the impact would remain significant and unavoidable.

Mitigation Measure 4.10-1 requires the implementation of noise reduction measures, including, but not limited to, ensuring equipment is fitted with working mufflers in good repair, utilization of the quietest equipment capable of performing the required construction, and locating of construction staging areas as far as possible from existing residence.

Mitigation Measure 4.10-2 restricts the use of Jake breaks along the project haul routes.

Mitigation Measure 4.10-3 requires the on-site mobile equipment be fitted with broad-band "growler" type back-up warning devices rather than conventional "beeper" devices and requires the preparation of a comprehensive noise monitoring program.

Mitigation Measure 4.10-3 of the DEIR requires ongoing implementation of a comprehensive noise monitoring program using noise monitors around the Brunswick and Centennial Industrial

Sites. The monitoring program will be independently verified by a third-party consultant under direct contract with Nevada County. Within 30 days of installation and operation of mine-related equipment at the Brunswick Industrial Site, the County's third-party noise consultant shall retrieve and evaluate noise monitoring data to evaluate whether mine-related operational noise levels are in compliance with County noise standards at the pre-determined Receptor locations. The results shall be submitted to the Nevada County Planning Department within one week from evaluation of the noise data. If the results indicate that the County noise standards are being exceeded either by individual equipment or processes, or cumulative noise generation of the entire facility, operations shall cease until additional engineering controls can be implemented as needed. Such measures could take the form of noise barriers, installation of sound absorbing materials, use of additional silencers, etc. After implementation of any recommended measures, follow-up noise level data evaluation shall be conducted to demonstrate that the resultant operational noise levels comply with the County noise level standards at nearby sensitive receptors.

Mitigation Measure 4.10-4 requires the project applicant to conduct a project-specific Ground Vibration Monitoring Program.

Transportation:

The EIR determined that impacts related to the following categories would be less than significant: study roadway segments and intersection queues under Existing Plus Approved Projects (EPAP) Plus Project conditions; transit, bicycle, and pedestrian facilities; vehicle miles traveled; and emergency access. Under Cumulative Plus Project conditions, a less-than-cumulatively considerable impact would occur related to study roadway segments.

The EIR determined that implementation of the proposed project would result in a significant impact related to construction traffic, truck turn movements at the Millsite Road/E. Bennett Road project egress (Brunswick Industrial Site), and pavement condition at several locations. However, the EIR requires mitigation in order to ensure that the aforementioned impacts are reduced to a less-than-significant level.

The EIR determined that the proposed project would result in a significant impact at three study intersections under the EPAP Plus Project scenarios, one of which would be significant and unavoidable even after mitigation (Brunswick Road/SR 174). The EIR also determined that the proposed project would have a cumulatively considerable incremental contribution to two intersections under Cumulative Plus Project scenarios, one of which would be significant and unavoidable even after mitigation (Brunswick Road/SR 174). In addition, the project's incremental traffic would cause a significant impact at one intersection queue during Cumulative Plus Project scenarios (Brunswick Road/Sutton Way). Mitigation measures are identified and required for the aforementioned cumulative impacts, but it cannot be guaranteed that the measures would reduce the incremental impacts to a less than cumulatively considerable level for the reasons previously described in this report.

Mitigation Measure 4.12-1 requires the applicant to enter into a traffic mitigation agreement with the County and provide the project's fair share toward needed improvements, as well as

requiring the applicant to enter into road maintenance agreements with Nevada County and City of Grass Valley, and other measures to reduces the impacts to transportation.

Mitigation Measure 4.12-6(a-f) requires the submittal of construction signing and traffic control plans to the Nevada County Public Works Department and the City of Grass Valley for review and acceptance.

Mitigation Measure 4.12-8(a-b) requires the payment of the Grass Valley Transportation Impact Fee to the City of Grass Valley.

Mitigation Measure 4.12-10 requires the re-timing of the Brunswick Road/Sutton Way intersection to the satisfaction of the City of Grass Valley.

Public Utilities:

The EIR determined that all impacts related to public services and utilities (e.g., fire, law enforcement, schools, parks, water, sewer, solid waste), including cumulative impacts, would be less than significant. As discussed in the EIR, for public services impacts, the analysis appropriately focuses on an evaluation of whether the project’s demand upon service providers would generate the need to build new facilities or expand existing facilities, the construction of which could cause environmental impacts.

Wildfire:

The EIR determined that the proposed project would result in a less-than-significant impact related to substantially impairing an adopted emergency response plan or emergency evacuation plan, installation or maintenance of wildfire-associated infrastructure which could exacerbate wildfire hazard, and exposing people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes. In addition, cumulative impacts were determined to be less than significant.

The EIR determined that implementation of the proposed project would result in a significant impact related to exacerbating wildfire hazards. The EIR requires mitigation in order to ensure that the aforementioned impact is reduced to a less-than-significant level.

Mitigation Measure 4.13-2 requires the submittal of a comprehensive Vegetation Management Plan for the review and approval by the County Fire Marshall’s Office.

TABLE 6 – CEQA SIGNIFICANT IMPACTS SUMMARY		
IMPACTS	LESS-THAN-SIGNIFICANT WITH MITIGATION	SIGNIFICANT AND UNAVOIDABLE
Aesthetics		
Visual Character (Project-Level and Cumulative)		✓
Air Quality, Greenhouse Gas Emissions		
Conflict with Applicable Air Quality Plan	✓	
Expose Sensitive Receptors to Substantial Pollutant Concentrations	✓	

Generation of GHG Emissions	✓	
Biological Resources		
Special-Status Plants	✓	
Special-Status Wildlife	✓	
Sensitive Habitats	✓	
Cumulative Loss of Habitat for Special-Status Species	✓	
Cultural and Tribal Cultural Resources		
Historic, Archaeological, and Tribal Cultural Resources	✓	
Geology, Soils, and Mineral Resources		
Seismic-Related Effects	✓	
Substantial Soil Erosion	✓	
Geologic Unit or Soil that is Unstable	✓	
Soils Incapable of Adequately Supporting Septic	✓	
Hazards and Hazardous Materials		
Routine Transport, Use, or Disposal of Hazardous Materials	✓	
Reasonably Foreseeable Accident Conditions Involving Hazardous Materials	✓	
Hydrology and Water Quality		
Violate Water Quality Standards or Waste Discharge Requirements or Otherwise Degrade Water Quality	✓	
Substantially Decrease Groundwater Supplies	✓	
Substantially Alter Existing Drainage Patterns	✓	
Flood Hazards	✓	
Noise and Vibration		
Substantial Temporary Increase in Noise		✓
Substantial Permanent Increase in Noise	✓	
Exposure of Persons to Excessive Vibration	✓	
Transportation		
Conflict with Program, Plan, Ordinance, or Policy addressing Study Intersections under EPAP Plus Project Conditions	✓	
Substantially Increase Hazards to Vehicle Safety	✓	
Conflict with Program, Plan, Ordinance, or Policy addressing Study Intersections under Cumulative Plus Project Conditions		✓
Conflict with Program, Plan, Ordinance, or Policy addressing Intersection Queues under the Cumulative Scenario		✓
Wildfire		
Exacerbate Wildfire Risks	✓	

RESPONSE TO COMMENTS RECEIVED AFTER THE PUBLICATION OF THE DRAFT AND FINAL EIR:

Since the close of the 91-day public comment period on the Draft EIR, staff has received numerous comments expressing concerns regarding the proposed project (see Attachment 6 for copies of the letters). Staff and its EIR consultant, Raney, has reviewed all of the comments and concluded that no new substantive issues are raised beyond those issues already identified during the DEIR public comment period and responded to by the County in the Final EIR. Notwithstanding, the County has elected to provide further clarification on the traffic-related comments provided in the City of Grass Valley letter (February 15, 2023), Air-Quality and Greenhouse Gas comments provided in Exhibit A of the Shute Mihaly & Weinberger letter (March 20, 2023), and biological related comments provided in the June A. Oberdorfer letter (February 16, 2023) submitted after the release of the Final EIR. Please see Attachment 6 to this staff report for responses to these comments. In addition, the County recognizes that many similar concerns continue to be raised in the letters received on the Final EIR, as well as other letters that more generally address concerns related to the proposed project. As a result, Attachment 5 to the staff report has been prepared to make certain master responses in the Final EIR readily available for the decision-makers during the review of the proposed project.

The County prepared a Supplement to the Final EIR to include attachments to Individual Letter 748 that were reviewed by the County when preparing responses, but inadvertently omitted during production of the Final EIR. The Supplement also includes an updated list of signatories to Group Letter 7 and is provided as Attachment 4 to the staff report.

Multiple agencies provided recommended conditions of approval for the proposed project. The County reviewed all recommended conditions and incorporated those conditions deemed appropriate. There were several instances where the recommended improvements exceeded the scope of environmental impacts identified in the EIR (e.g., roadway improvement conditions recommended by the City of Grass Valley). The County did not include such conditions to ensure that all required conditions have an established nexus to the proposed project's identified environmental impacts.

Commenter Claims Regarding Inadequacy of Responses to Comments on the Draft EIR

Some commenters disagreed with the responses to their original comments on the Draft EIR and suggested that the responses were not sufficient to respond to their concerns. The Final EIR responds to all written comments received on the Draft EIR. The detail of the responses in the Final EIR corresponded to the extent of the detail of the comments received and identify technical analysis provided in the Draft EIR that supports the response. While commenters may disagree with the conclusions of the Draft and Final EIR, disagreement does not render the EIR inadequate (see California Environmental Quality Act Section 15151). In several cases, commenters suggest that the technical analysis of the EIR is flawed but provide no countering technical analysis in the form of substantial evidence to support these statements.

Erratum to Final EIR

Based upon public comments on the Final EIR, the County has determined that one minor text change made in the Final EIR to Chapter 4.3, Air Quality, Greenhouse Gas Emissions, and Energy,

of the Draft EIR, was unnecessary. The wording in the Draft EIR is correct. Therefore, the County has prepared an Erratum to the Final to revert the wording back to its original form in the Draft EIR (Attachment 3). Due to the nature of the minor correction, it does not constitute significant new information.

GENERAL PLAN CONSISTENCY AND ZONING CODE CONSISTENCY:

General Plan:

The Nevada County General Plan was originally approved by the Board of Supervisors in 1996. The General Plan has been subsequently amended in 2008 (Safety Element), in 2010 (Circulation Element and Housing Element, 4th Revision) and in 2014 (Land Use Element and Housing Element, 5th Revision). The Nevada County Board of Supervisors also adopted amendments to the Safety and Noise Elements in October 2014. In addition, the Nevada County General Plan was updated to include updates to the 6th Cycle Housing Element (2019-2027), which was adopted by the Board of Supervisors on June 25, 2019, via Resolution No. 19-362. The Safety Element has been updated as a result of the 2017 update to the Local Hazard Mitigation Plan (adopted in 2018). The Board of Supervisors adopted the Safety Element on February 11, 2020, via Resolution No. 20-044. The Nevada County General Plan is the long-term policy guide for the physical, economic, and environmental future of the County.

The General Plan Guidelines published by the State Office of Planning and Research defines consistency as follows, “An action, program, or project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment.” Therefore, the standard for analysis used is in general agreement with the policy language and furtherance of the policy intent (as determined by a review of the policy context). The determination that the project is consistent or inconsistent with the Nevada County General Plan policies or other County plans and policies is ultimately the decision of the Nevada County Board of Supervisors. Furthermore, although the CEQA analysis may identify some areas of general consistency with Nevada County policies, the County has the ability to impose additional requirements or conditions of approval on a project, at the time of its approval, to bring a project into more complete conformance with existing policies.

The surface components on the Brunswick Industrial Site, Centennial Industrial Site, and East Bennett Road are located in the Nevada County Industrial (IND) General Plan Land Use designation. The IND Land Use designation land use category is intended to provide for areas in which goods are produced, distributed and warehoused, along with supporting business and service uses. Locations within this designation should be able to provide 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.

The majority of the surface project is located on the Brunswick Industrial Site, which is partially located within the City of Grass Valley’s Long-Term Sphere of Influence. The southern portion of the Brunswick Industrial Site is outside of the City’s Sphere of Influence. The Centennial Industrial Site is located within the City of Grass Valley’s Near-Term Sphere of Influence. While the majority of the project sites are located in the City’s Sphere of Influence and assigned General

Plan land use designations by the City, the project sites are located within unincorporated western Nevada County. Nevertheless, pursuant to General Plan Policy 1.8.4, for all discretionary projects within a City's Sphere of Influence, the County shall first request that the City / Town determine whether or not it desires to annex the project. As required, the City of Grass held a Development Review Committee (DRC) Meeting on September 8, 2020, and determined that the City did not wish to pursue annexation of the project at that time. Furthermore, the City of Grass Valley also provided comments to the County from the DRC meeting, which were reviewed as part of the development of the Draft EIR.

The Nevada County General Plan divides the County into Community Regions and Rural Regions. Within the Rural Regions, growth is limited to those types and densities of development which are consistent with the open, rural lifestyle, pastoral character and natural setting and surrounding land use patterns which exists in these areas. Within the Community Regions, balanced growth is encouraged to provide managed housing, community, located for convenience, efficiency, and affordability. 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, that would include all of the proposed buildings which would be located on the Brunswick Industrial Site.

Zoning Code:

The following sections of the Nevada County Land Use and Development Code are applicable to the proposed subsurface and surface mining operations.

Subsurface Mining (Section L-II 3.21)

Subsurface mining is allowed in all base districts subject to approval of a Use Permit. Surface access to subsurface mining, including vent and escape shafts, is allowed in the AG, FR, M1, M2, P, and PD base districts subject to approval of a Use Permit. Small vent and escape shafts disturbing not more than 100 cubic yards of overburden are allowed in all other base districts subject to approval of a Use Permit.

Surface Mining Definition (Section L-II 3.22 [B.19])

Surface Mining - All, or any part of, the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incident to an underground mine. Surface mining operations include, but are not limited to, combination, concentration, processing, in-place distillation or retorting or leaching, the production and disposal of mining waste, borrow pitting, streambed skimming, and segregation

and stockpiling of mined materials (and recovery of same). Said process shall not include the processing and use of on-site aggregate for on-site construction (see Section L-II 3.13).

Surface Mining (Section L-II 3.22 [D.3])

Surface mining is allowed in the AG, FR, M1, M2, P, PD, and TPZ Districts and where the property is zoned ME, subject to approval of a Use Permit and Reclamation Plan. Within the TPZ Districts, surface boulder collection only is allowed, and is limited to exposed rocks within areas of historic, previously mined lands where no significant impacts to sensitive resources occur, and no additional roads are constructed, subject to a Use Permit and Reclamation Plan.

Mineral Extraction (ME) Zoning Combining District (Section L-II 2.7.3)

The purpose of the ME Combining District is to allow for surface mining and to provide for public awareness of the potential for surface mining to occur where adequate information indicates that significant mineral deposits are likely present. The ME Combining District is intended to inform the public of the existence of minerals and the potential for mineral extraction and shall be used only on those lands that are within any of the compatible Nevada County General Plan designations and which are not in a residential zone.

Light Industrial (M1) Zoning District (Section L-II 2.5 – Industrial Districts)

The M1 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.

The proposed project would allow for subsurface mining activities which are an allowed use in all base zoning districts, subject to the approval of a Use Permit as required by Nevada County LUDC, Section L-II 3.21 – Subsurface Mining. In addition, pursuant to Section L-II 3.21, surface access to subsurface mining activities, including vent and escape shafts, are allowed in the AG, FR, M1, M2, P and PD base zoning districts, subject to the approval of a Use Permit. LUDC Section L-II 3.22 (B.19) – Surface Mining includes processing as a surface mining operation and LUDC Section L-II 3.22 (D.3) allows surface mining, which includes processing plant operations, in the M1 Zoning District, and where the subject parcel is zoned with the ME Combining District, subject to the approval of a Use Permit and Reclamation Plan. The proposed project includes a subsurface estate of approximately 2,585 subsurface acres, to which the applicant retains the mineral rights, and which is comprised of many different types of base zoning districts. However, subsurface mining activities are allowed in all base zoning districts, subject to the approval of a Use Permit, as allowed by Nevada County LUDC, Section L-II 3.21 – Subsurface Mining.

Thus, as proposed, both the subsurface mining activities and the surface access to subsurface mining activities uses are allowed within the M1 Zoning District, subject to the approval of a Use Permit and Reclamation Plan and would require the approval of a Rezone to add the ME Combining District.

The project as proposed would also include seven (7) Management Plans that are required by the Nevada County Land Use and Development Code. A Watercourse/Wetlands/Riparian Areas

Management Plan has been prepared pursuant to LUDC Chapter II; Zoning Regulations, Section L-II 4.3.17, which would allow for the project to be approved when located within the 100-foot non-disturbance buffer of Wolf Creek and the South Fork of Wolf Creek. The *Pine Hill Flannelbush* Management Plan for the Centennial Industrial Site was prepared pursuant to Nevada County LUDC, Section L-II 4.3.12. The Management Plans for Steep Slopes and High Erosion Potential for the Centennial and Brunswick Industrial Sites were prepared pursuant to Nevada County LUDC Section L-II 4.3.13, and the Brunswick Industrial Site Management Plan for Potential Seismic Hazards was prepared pursuant to Nevada County LUDC Section L-II 4.3.8. A Floodplain Management Plan was prepared for the proposed project pursuant to LUDC Section L-II 4.3.10 to allow the limited grading activities at the Centennial Industrial Site to be located within the 100-foot setback to the 100-year floodplain associated with Wolf Creek.

Consistency with the General Plan Central Themes:

The General Plan provides guidance on evaluating proposed changes by establishing Central and supporting Themes. The following are four central themes: (Volume I Page I-1)

1. Fostering a rural quality of life;
2. Sustaining a quality environment;
3. Development of a strong, diversified, sustainable local economy; and,
4. Planned land use patterns will determine the level of public services appropriate to the character, economy and environment of each region.

Fostering a Rural Quality of Life (General Plan Central Theme 1):

The term “rural quality of life” means different things to different people. The General Plan explains the goals and policies of the Land Use Element “establish a desired land use pattern which balances growth between rural and urban areas. Providing a balance between housing, employment, natural resources, and services is a key element in maintaining the quality of life and unique character of Nevada County.” (Vol. I Page 1-1) In this context the project sites are designated as IND by the General Plan. The nature of the discussion then, must focus on how the proposed project in the IND designated area can be developed while at the same time fostering a rural quality of life as defined in the General Plan.

The Brunswick Industrial Site is surrounded primarily by property zoned Residential Agriculture (RA), with property which is also zoned Single-Family Residential (R-1), thus the balancing of the land use pattern is very important. The overall project site is mostly located within the Grass Valley Community Region, and the southern portion of the Brunswick Industrial Site is within the Rural Region. As shown on the submitted site plans all proposed buildings on the Brunswick Industrial Site would be located within the Grass Valley Community Region. The site entrance, part of the employee parking lot, and engineered fill pad at the Brunswick Industrial Site would be located within the Rural Region. Although development of the engineered fill pad is not proposed as part of the proposed project, the fill pad has been designed to allow potential future development that would be consistent with the project site’s IND General Plan Land Use Designation and

Industrial zoning designations. Portions of this area of the project site have historically been used as lumber storage associated with the former Bohemia Mill on the site. The proposed engineered fill pad would be located approximately 50 feet from the southern property line and 150 feet from the western property boundary. If any future development of this industrial area is proposed, it would require additional discretionary actions by the County as well as additional CEQA review once a specific development application is submitted. The challenge will be to ensure that any future development is consistent with the General Plan policies related to the Rural Region and provides adequate buffers to maintain quality of life for surrounding uses.

The above ground uses on the Brunswick Industrial Site would be located on areas of the site where prior lumber mill and mining processing occurred. All activities would be within enclosed areas to minimize noise and dust for surrounding uses. The buildings would total approximately 126,000 square feet, but would be separated into smaller buildings, the largest of which would be the process plant at approximately 29,200 square feet. Smaller buildings located throughout the site, create a more rural character than larger buildings. The headframe for the shaft, however, extends to approximately 165 feet in height. The headframe for the service shaft is approximately 80 feet high, and the process plant is 64 feet in height. A variance has been requested to exceed the 45-foot height limit of the Industrial Zone. As proposed these building heights could be considered inconsistent with the rural character and quality of life.

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 also be considered inconsistent with the rural character and quality of life of the surrounding area. While the Site is designated IND and zoned Industrial, there are many types of industrial development. The purpose of 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 adequate setbacks from adjacent land uses, the intensity of the mining operations exceed those that are compatible with the rural character of the surrounding semi-rural area.

The Centennial Industrial Site is surrounded primarily by commercial and industrial land, most of which is within Grass Valley City Limits. This Site is located within the *Community Region*. As with the engineered fill pad of the Brunswick Industrial Site, development on the Centennial engineered fill pad is not proposed as part of the project and will also require discretionary actions and CEQA review when specific development is proposed.

Therefore, as discussed above, the proposed project would be considered inconsistent with Central Theme 1.

Sustaining a Quality Environment (General Plan Central Theme 2):

The Nevada County General Plan, in accordance with the central themes of the Plan, is based upon the concept of a balanced, self-sustaining community. This concept implies a balance between the

types of land uses that provide housing, commercial services and employment, as well as the amount and location of land areas designated for development of these uses. The proposed project does not include any modifications to the General Plan Land Use designations of the Sites so a change to the amount and location of land areas designated for development of industrial uses would not be modified. As noted in the EIR prepared for the proposed project, all environmental impacts can be reduced to a less-than-significant level with the exception of Aesthetics (Scenic Resources and Visual Character), Noise associated with the construction of the potable water line along East Bennett Road, and Transportation (SR174/Brunswick Road intersection and Brunswick Road/Sutton Way intersection). Of the total 175 acres included in the project sites, approximately 104 acres would be disturbed as a result of construction of the above-ground facilities proposed to support dewatering, mining, and processing at the Idaho-Maryland Mine, as well as engineered fill placement. The remaining 71 acres would remain as open space and would not be subject to surface disturbance or infrastructure improvements. The project would also involve underground mining within a 1,415-acre portion of an approximately 2,585-acre mineral rights boundary owned by the applicant. There are not valuable gold deposits within the entire 2,585-acre mineral rights area; thus, the applicant has specific areas that will be targeted for gold extraction. In order to address public concerns regarding the scope of future mining within the mineral rights area, the applicant has agreed to an enforceable condition of approval Condition of Approval A.34 that will limit the area of permitted underground mining to a smaller area within the mineral rights area is recommended (shown on Attachment 1).

With respect to natural habitats, the proposed project would result in the loss of up to approximately 6.5 acres of the approximately 10 acres of forest/timberland (montane hardwood conifer/montane hardwood/Wolf Creek and montane riparian) on the Centennial Industrial Site; and the project would result in the loss of approximately 18.5 acres of the approximately 58 acres of forest/timberland (montane hardwood-conifer/montane hardwood/Ponderosa pine/Sierran mixed conifer) on the Brunswick Industrial Site. Overall, implementation of the proposed project would result in the loss of up to approximately 25 acres of forest land. With respect to annual grassland, only approximately 0.26-acre of a total of 8.15 acres of annual grassland would be impacted on the Brunswick Industrial Site, and approximately 1.84 acres out of a total of 3.54 acres would be impacted on the Centennial Industrial Site. With respect to wet meadow habitat, only approximately 0.26-acre of a total of 9.36 acres would be impacted on the Brunswick Industrial Site, approximately 0.26-acre of the total 0.41-acre of wet meadow habitat would be impacted on the Centennial Industrial Site.

12.7 acres of the Centennial Industrial Site would be preserved, including the main stem of Wolf Creek, the 100-foot non-disturbance setback of the main stem of Wolf Creek, and an undisturbed and protected zone containing Pine Hill flannelbush. Regarding the latter, the southern portion of the Centennial Industrial Site, containing the majority of Pine Hill flannelbush, would remain undeveloped and be protected in perpetuity. Within this avoidance area, 42 of the 60 flannelbush plants would be protected. Furthermore, as discussed in Chapter 4.4, Biological Resources, of the EIR, while Pine Hill flannelbush is conservatively assumed to be present on the Centennial Industrial Site, the presence of said species is inconclusive based on current published scientific literature. The limited disturbance that would occur within the County's 100-foot non-disturbance

buffer zone from Wolf Creek would be subject to the requirements of the Watercourse/Wetlands/Riparian Areas Management Plan (see Mitigation Measure 4.4-3(b)).

Nevada County Land Use and Development Code, Section L-II 4.3.12 requires implementation of a Habitat Management Plan for the assumed Pine Hill flannelbush, that is located on the Centennial Industrial Site which includes, among other action items, a transplantation strategy, the details of which will ultimately be subject to review and approval by United States Fish and Wildlife Service and the California Department of Fish and Wildlife. For example, the 18 individual plants that would be directly impacted by the engineered fill placement at Centennial Industrial Site would be transplanted to another site with similar soil, hydrologic, vegetation type and aspect, and monitoring to ensure success. If transplanting ultimately proves unsuccessful, substantial transplanting from seedbank shall occur at a 100:1 ratio.

Regarding South Fork Wolf Creek, of the 0.59-acre of this perennial stream located within the boundaries of the Brunswick Industrial Site, approximately 15 linear feet would be permanently impacted, and 40 linear feet temporarily impacted, due to installation of infrastructure, including a new treated water discharge outfall and replacement of a deteriorated 48-inch buried culvert. All work within the County's 100-foot non-disturbance buffer zone from the creek would be completed in accordance with Watercourse/Wetlands/Riparian Areas Management Plan (see Mitigation Measure 4.4-3(b)).

As noted above, the EIR prepared for the proposed project concludes that most environmental impacts can be reduced to a less-than-significant level except for Aesthetics (Scenic Resources and Visual Character), temporary Noise associated with the construction of the potable water line along East Bennett Road, and Transportation (SR174/Brunswick Road intersection and Brunswick Road/Sutton Way intersection). The Board of Supervisors has the option of adopting overrides for these impacts. With the adoption of the Statement of Overriding Considerations, the proposed project would be consistent with Central Theme 2.

Development of a Strong, Diversified, Sustainable Local Economy (General Plan Central Theme 3):

“In Nevada County, there has been significant growth from commuters and retirees, which ultimately creates jobs in retail trade and services, but does not create new basic employment.” (General Plan Vol. 1, Page 2-2) As proposed, during project construction, a workforce of approximately 52 persons is estimated. As indicated in the Draft EIR the project applicant anticipates employing approximately 121 workers to support initial underground mining, increasing to approximately 312 direct employees during full operations, thus benefitting local residents employed at a fair living wage, which would create additional economic stimulus in Nevada County along with creating additional local indirect jobs. Furthermore, as further included in the Draft EIR the project as proposed would generate substantial property tax revenue for Nevada County due to increased value to the subject project parcels along with generating ongoing sales tax revenue as well as state and federal taxes. Furthermore, as proposed, the project would help to support the local economy by generating additional job creation indirectly due to dollars spent locally by project operations, employees, vendors and contractors within Nevada County.

Thus, given the above discussion, the proposed project would be consistent with Central Theme 3 of the Nevada County General Plan.

Planned Land Use Patterns Will Determine the Level of Public Services Appropriate to the Character, Economy and Environment of each Region (General Plan Central Theme 4):

The General Plan states, “The levels of service and provision of public facilities in *Community Regions* shall be based upon improving the capacity of public facilities to serve higher levels of development directed to *Community Regions*. The levels of service and provision of public facilities in Rural Regions shall be based upon limiting the amount of development to ensure that adequate facilities are available.” (Vol. 1, Page 3-5) The intent of the policy is to ensure that development neither overwhelms the public services, nor requires such large expansions in capacity that the services exceed the intent of the community, resulting in more development. The proposed project will purchase water from NID for potable purposes as well as during the initial construction period for compaction and dust suppression. New water infrastructure is not being constructed to serve the site. However, a new water line is proposed to be installed within the right-of-way of East Bennett Road to ensure that residents have access to a stable water source in the event that the dewatering impacts existing wells. The project would include an on-site septic field system for the permanent toilets, sinks, and showers and would include portable chemical toilets and hand-washing stations to employees working underground. Significant modifications to the level of public services are not proposed to serve the proposed project, therefore the proposed project is consistent with Central Theme 4.

GENERAL PLAN AND ZONING CODE ENTITLEMENT CONSISTENCY:

Below is a discussion of the proposed Project’s Entitlements consisting of a Rezone, Use Permit with a Reclamation Plan, Variance, Management Plans, Boundary Line Adjustment and Parcel Map Amendment for consistency and inconsistency with the Central Themes of the General Plan, several key General Plan Policies and for consistency and inconsistency with the Light Industrial (M1) with Mineral Extraction Combining District (ME) Zoning District.

Rezone (RZN19-0002):

Pursuant to Nevada County Land Use and Development Code Section L-II 5.9 and California Government Code, section 65800 a Rezone is a legislative act and is a discretionary approval of the Nevada County Board of Supervisors following the recommendation of the Nevada County Planning Commission, to determine whether the rezone is in the public interest. As outlined above, the Brunswick Industrial Site is zoned Light Industrial (M1) with Site Performance Combining District (SP) with a corresponding General Plan Land Use Designation of Industrial (IND) and the Centennial Industrial Site is zoned Light Industrial (M1) with a corresponding General Plan Land Use Designation of Industrial (IND).

As outlined in Nevada County Land Use and Development Code, Section L-II 2.5 – Industrial Districts, the M1 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.

Pursuant to the Nevada County LUDC Section L-II 5.9 (G), an amendment to the General Plan or Zoning Ordinance may be approved only if all of the following findings are made:

1. The proposed amendment is consistent with and furthers the goals, objectives, policies, and implementation measures of the General Plan and the provisions of this Code,
2. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the County,
3. For General Plan land use map and zoning district map amendments, the site is physically suitable for the requested Plan designation(s) and zoning district(s) and anticipated land use development(s). Factors considered to evaluate suitability shall include access, provision of public facilities and utilities, compatibility with nearby land uses, and presence or absence of resources and constraints as found in the Resource Standards.

Requirements for Establishing of the ME Combining District:

The proposed project includes the requested Rezone of 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). Pursuant to Section L-II 2.7.3 of the Nevada County Land Use and Development Code, the primary purpose of the Mineral Extraction Combining District (ME) is to allow for surface mining and to provide for public awareness of the potential of the existence of minerals and the potential for surface mining to occur where adequate information indicates that significant mineral deposits are likely present. While the primary mining activities would be subsurface, which is a conditionally allowed use in the M1 Zoning District, subject to the approval of a Use Permit, the proposed activities at the Brunswick site include activities defined as surface mining and require adding the ME Combining District zoning under LUDC Section L-II 3.22. In addition, the rezoning of the Brunswick Industrial Site to remove the Site Performance Combining District is also necessary because it was added as part of Ordinance No. 1853 in 1994 when the project site was owned by Sierra Pacific Industries and proposed as the Nevada County Business and Industrial Center. Given that the Nevada County Business and Industrial Center is no longer proposed, it would be appropriate to rezone the subject site to remove the SP Combining District and to add the ME Combining District to the Brunswick Industrial Site.

In establishing the ME Combining District as outlined in Section L-II 2.7.3 of the Nevada County Land Use and Development Code, one or more of the following standards must be met:

1. Said lands have been designated as MRZ-2 based on State of California Classification Reports.
2. It has been clearly demonstrated that significant mineral deposits are likely present on said lands based on data similar in nature to the State Classification Reports.

The parcels at the Brunswick Industrial Site are located on land designated MRZ-2b, and historic gold mining of the project site and recent exploratory drilling clearly demonstrates that significant

mineral deposits are accessed from the Brunswick Industrial Site. Therefore, both standards can be met and with the approval of the Rezone, the proposed project would be consistent with the permitted uses for the M1-ME Zoning Designation and allowed with the approval of a Conditional Use Permit.

Consistency with Key General Plan Policies:

General Plan Policy 1.1.3. – Land Use Element

Within the County, the Community Regions are established as areas in the County within which growth should be directed to provide compact, areas of development where such development can be served most efficiently and effectively with necessary urban services and facility.

Most of the proposed project is located on the Brunswick Industrial Site, which is partially located within the City of Grass Valley's Long-Term Sphere of Influence. The southern portion of the Brunswick Industrial Site is outside of the City's Sphere of Influence. The Centennial Industrial Site is located within the City's Near-Term Sphere of Influence. While many of the subject project sites are located in the City's Sphere of Influence and assigned General Plan land use designations by the City of Grass Valley, the sites are located within the unincorporated Western Nevada County and are not proposed to be annexed to the City. All the buildings proposed for the Brunswick Industrial Site would be located within Grass Valley Community Region, whereas no buildings are proposed for the section of the project site existing in the Rural Region. The gated entrance proposed along Brunswick Road, a portion of the employee parking lot, and engineered fill pad would be located within the Rural Region. However, as shown on the submitted site plans there would be a sufficient buffer zone for existing residences which are located adjacent to the project sites and all driveway ways would be located within the project site and pursuant to recommended Condition of Approval A.28 and MM4.12-6(c) truck haul routes would not go through residential neighborhoods.

General Plan Policy 1.2.4 – Land Use Element

The General Plan provides for future development in accordance with the following criteria for various land use designations:

- n. Industrial (IND) is intended to provide areas in which goods are produced, distributed, and warehoused, along with supporting business and service uses. Locations within this designation should be able to provide 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.*

The project as proposed would be consistent with an industrial use because mining would produce gold concentrates. Subsurface mining is allowed in all Base Zoning Districts, surface access to subsurface mining is allowed in the M1 Base District (LUDC Section L-II 3.21), and surface mining is allowed in the M1 Zoning District (LUDC Section L-II 3.22). The Brunswick Industrial Site maintains fifty (50) feet to the south and one hundred fifty (150) feet to the west; an area of existing mature forest to provide buffering from adjacent land uses.

Traffic can be considered a compatibility issue as proposed. The project would result in 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. The site is located adjacent and has convenient controlled access to Brunswick Road. A short portion of East Bennett Road would be used for some outbound trucks turning right from the exit gate to reach Brunswick Road. The project traffic would travel on roadways designated as Minor Arterial (Brunswick Road) and Major Collector (Whispering Pines Lane). Project-related traffic would not travel on roads designated as Local. While areas zoned for residential use are near portions of these roadways, these roadways are not within residential neighborhoods and are currently used by heavy truck traffic to access the surrounding industrial and commercial areas near the Nevada County Airport. Therefore, the proposed project is consistent with the Industrial General Plan land use designation.

General Plan Policy 17.9 – Mineral Management Element

Encourage the mining of previously mined land, if such land still contains economically mineable minerals, so the land can be reclaimed for alternative uses.

The Project would mine previously mined land that is known to contain economically mineable minerals. Reclamation of the site would result in land for alternative industrial uses consistent with its County Industrial land use designation. No future industrial use could occur on-site without separate environmental review and approval of additional discretionary entitlements by the County. The proposed project contains economically mineable minerals and is subject to separate environmental review and approval of a Use Permit with a Reclamation Plan and is therefore consistent with Policy 17.9 of the Mineral Management Element.

General Plan Policy 17.15 - Mineral Management Element

Surface mining is conditionally permitted only in compatible General Plan designations as defined herein and on parcels zoned Mineral Element (“ME”). Said mining shall be allowed only after impacts on the environment and nearby land uses have been adequately reviewed and found to be in compliance with CEQA. Of particular importance will be the impact of the operation on nearby land uses, water quantity and quality, noise and vibration impacts, and traffic associated with the operation. All other related impacts will be addressed.

The Project includes a rezone of the Brunswick Site from M1-SP to M1-ME and is subject to environmental review consistent with the CEQA. The Project would comply with all applicable federal, state, and local regulations in addition to implementation of mitigation measures required by the DEIR and associated mitigation measures, as well as conditions of approval.

The Draft EIR identifies the project effects on water quantity and quality in Chapter 4.8, Hydrology and Water Quality; noise and vibration impacts are addressed in Chapter 4.10, Noise and Vibration; and traffic effects are addressed in Chapter 4.12, Transportation.

General Plan Policy 17.24 - Mineral Element

Regardless of the General Plan designation, subsurface mining shall be conditionally permitted throughout the County. Said mining shall be allowed only after impacts on the environment and

affected surface land uses have been adequately reviewed and found to be in compliance with CEQA. Of particular importance shall be the impact of the operation on surface land uses, water quantity and quality, noise and vibration, land subsidence, and traffic associated with surface access. All other related impacts shall also be addressed.

The Draft EIR addresses any potential impacts including the operation on surface land uses, water quantity and quality, noise and vibration, land subsidence, and traffic associated with subsurface access to allow for underground mining and gold mineralization processing for the Idaho-Maryland Mine. All other related impacts have been addressed in the DEIR and as further outlined above under within GP Mineral Management Element Policy Discussion Policy 17.15. Therefore, the Project is consistent with Policy 17.24.

Inconsistency with Key General Plan Policies:

General Plan Policy 1.1.1 – Land Use Element

Maintain a distinct boundary between Rural and Community Regions.

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. Furthermore, the proposed project is adjacent to the boundaries of the City of Grass Valley and within their Sphere of Influence.

General Plan Policy 1.1.2 - Land Use Element

The General Plan divides the County into Community Regions and Rural Regions. All the land areas of the County are placed in one of these regions. Within the Rural Regions, growth is limited to those types and densities of development which are consistent with the open, rural, lifestyle,

pastoral character and natural setting and surrounding land use patterns which exists in these areas. Within the Community Regions, balanced growth is encouraged to provide managed housing, community, located for convenience, efficiency, and affordability.

Inconsistency with Rural Regions

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 uses. 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 stands 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, as proposed, the project would not be consistent with General Plan Policy 1.1.2.

General Plan Policy 1.4.2 - Land Use Element

Development within the Community Regions shall be consistent with the overall rural quality of life in the County, as demonstrated through sensitivity to resource constraints, provision of interwoven open space as a part of development, and community design which respects the small town or village character of the Community Regions. These criteria shall be accomplished through application of the Comprehensive Site Design Standards in review of discretionary and ministerial projects.

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. Included is recommended Condition of Approval A.20 to break up the rear elevations of the processing plant to conform to the Western Nevada County Design Guidelines. Condition of Approval A.19 is also recommend ensuring that the colors are earth tone and Mitigation Measure 4.1-2C, is recommended to require the submission of a final Landscaping Plan along with standard Condition of Approval A.16 being recommended to ensure that lighting complies with International Dark Sky Association standards.

However, as proposed the applicant’s request for a Variance to increase building heights (to a maximum of 165 feet for the head frame building) where 45 feet is required and the intensity of the mining and industrial use, is inconsistent with rural character of the area as outlined in the Central Theme 1 discussion above and would therefore be inconsistent with General Plan Policy 1.4.2.

General Plan Policy 17.6 – Mineral Management Element

Encourage extraction of mineral resources in compatible areas prior to intensified urbanization or conversion to other incompatible land use development.

The project as proposed would be a gold mining operation on a site previously used for gold mining, and on sites 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 the Central Theme 1 discussion above 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.

Consistency with Key Zoning Code Policies:

Consistency with Mineral Extraction (ME) Combining District

The project as proposed would be consistent with an industrial use because mining would produce gold concentrates. Subsurface mining is allowed in all Industrial Zoning Districts, surface access to subsurface mining is allowed in the M1 Zoning District (LUDC Section L-II 3.21), and surface mining is allowed in the M1 Zoning District (Section L-II 3.22). The Brunswick Industrial Site includes buffer zones of 50 feet to the south and 150 feet to the west, that include areas of mature forest to provide buffering from adjacent land uses. Furthermore, the subject parcels within the both the Brunswick and Centennial Industrial Sites have a General Plan Land Use Designation of Industrial and a General Plan Land Use Map Amendment is not required.

The Brunswick Industrial Site is surrounded primarily by property zoned Residential Agriculture (RA), with property which is also zoned Single-Family Residential (R-1), thus the balancing of the land use pattern is very important. The above ground uses on the Brunswick Industrial Site would be located on areas of the site where prior lumber mill and mining processing occurred. All activities would be within enclosed areas to minimize noise and dust for surrounding uses. The buildings would total approximately 126,000 square feet, but would be separated into smaller buildings, the largest of which would be the process plant at approximately 29,200 square feet. Smaller buildings located throughout the site, create a more rural character than larger buildings. The headframe for the shaft, however, extends to approximately 165 feet in height. The headframe for the service shaft is approximately 80 feet high, and the process plant is 64 feet in height. A Variance has been requested to exceed the 45-foot height limit of the Industrial Zone.

The ME Combining District allows for surface mining and provides public awareness of the potential for surface mining to occur where adequate information indicates that significant mineral deposits are likely present. This District should be used only on those lands that are within any of the compatible Nevada County GP designations and that are not in a residential zone. All uses in the ME Combining District are subject to approval of Use Permit with a Reclamation Plan and require environmental review which is consistent with CEQA. In the M1 Zoning District where the district symbol is followed by, as part of such symbol, the letters ME, the extraction of minerals by open mining, quarrying, dredging, and related operations on the surface, including comminution, concentration, processing, waste disposal, tailing disposal and the reclamation thereof shall be conditionally allowed subject to the requirement outlined in LUDC Section 3.22 and are similar to Mineral Management Element of the General Plan.

In establishing the ME Combining District as outlined in Section L-II 2.7.3 of the Nevada County Land Use and Development Code, one or more of the following standards must be met:

1. Said lands have been designated as MRZ-2 based on State of California Classification Reports.
2. It has been clearly demonstrated that significant mineral deposits are likely present on said lands based on data similar in nature to the State Classification Reports.

The parcels at the Brunswick Industrial Site are located on land designated MRZ-2b, and historic gold mining of the project site and recent exploratory drilling clearly demonstrates that significant mineral deposits are accessed from the Brunswick Industrial Site. Therefore, both standards can be met and with the approval of the Rezone, the proposed project would be consistent with the permitted uses for the M1-ME Zoning Designation and allowed with the approval of a Conditional Use Permit.

Inconsistency with Several Key Zoning Code Policies

The Brunswick Industrial Site is zoned M1-SP, and the Centennial Industrial Site is zoned M1. As proposed, the project would require the approval of a Rezone of the Brunswick Site from M1-SP to M1-ME. As outlined in Section L-II 2.5 of the LUDC the M-1 (Light 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.

As outlined in the Nevada County Land Use and Development Code the ME Combining District allows for surface mining and provides public awareness of the potential for surface mining to occur where adequate information indicates that significant mineral deposits are likely present. This District should be used only on those lands that are within any of the compatible Nevada County General Plan designations and that are not in a residential zone. All uses in the ME Combining District are subject to approval of a Use Permit with a Reclamation. The extraction of minerals by open mining, quarrying, dredging, and related operations on the surface, including comminution, concentration, processing, waste disposal, tailing disposal, and the reclamation thereof shall be conditionally allowed subject to the regulations in Nevada County Land Use and Development Code Section L-II 3.22 – Surface Mining and Permits and Reclamation Plans.

The core issue is whether the proposed Rezone to add the ME Combining District is consistent with the requirements and findings required under Nevada County Land Use and Development Code Section L-II 5.9.G and as outlined above. The project as proposed does not include a General Plan Amendment and the subject parcels are as they are currently zoned would meet the intent of the existing M1 Light Industrial Zoning District; thus, the first finding could be made.

The second finding as required by Nevada County Land Use and Development Code Section L-II 5.9.G is to determine that the proposed Rezone would not be detrimental to the public interest, health, safety, convenience, or welfare of the County. The County has received a significant number of comments and concerns regarding the incompatibility of the proposed use with neighboring residential and commercial properties and how the use would detrimentally impact the public interest, health, safety, convenience, or welfare of the County. In addition, there is

extensive evidence concerning noise, traffic, aesthetic, air quality pollution, water impacts to surrounding property owners and the buffer zone with adjacent parcels along with impacts to residents of the City of Grass Valley. 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 Headframe which is proposed at a height of 165, where 45 feet is required by the Light Industrial Zoning District. As proposed 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 also be considered inconsistent with the rural character and quality of life of the surrounding area. While the project site is zoned Light Industrial (M1), there are many types of industrial development. The purpose of the Light-Industrial Zoning 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 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. Therefore, based on the findings required to be made to Rezone the subject Brunswick Industrial Site to add the ME Combining District would not be consistent with the Light-Industrial Zoning District given the overall intensity of the proposed mining project.

USE PERMIT AND RECLAMATION PLAN (CUP19-0004):

Use Permit:

The applicant has applied for a Use Permit for uses and facilities over the 80-year permit life consistent with the project as described in this staff report, including:

- Operation of pumps and a water treatment facility to dewater the underground mine workings;
- Construction of a water pipeline to transport treated water to an outfall located in South Fork of Wolf Creek;
- Construction of the necessary aboveground facilities at the Brunswick Industrial Site (to include but not limited to, headframes and hoists, surface structures, a mineral processing plant) to support underground mining and mineral processing;
- Underground mining, including drilling, blasting, and gold mineralization removal;
- Gold mineralization and rock processing at the Brunswick Industrial Site and off-site transport of gold concentrate;
- Placement of engineered fill at the Brunswick Industrial Site;
- Transport of engineered fill from the Brunswick Industrial Site and placement at the Centennial Industrial Site;

- Transport of engineered fill from the Brunswick Industrial Site to off-site construction projects; and
- Construction of a potable water pipeline to supply residences along a portion of East Bennet Road.

Consistent with Key General Plan Policies

General Plan Policy 17.7 – Mineral Management Element

Use Permit time limits for each project shall be established on a case-by-case basis. Time limits shall be based on the reasonably expected life of the mining operation and potential conflicts with future neighboring land uses. Each project shall have a periodic review for compliance with the Use Permit by the Planning Agency. In no case shall such review period exceed five (5) years. Said review shall be funded by applicant.

As proposed the applicant has applied for a Use Permit and Reclamation Plan (CUP19-0004) for uses and facilities over the 80-year permit life consistent with the proposed project as outlined above in Draft EIR, Chapter 3.0 – Project Description and as described above in the Project Description in this Staff Report. The proposed project would 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. Following completion of mining and processing activities, the subject project sites would be reclaimed to open space and land suitable for proposed future development of industrial uses, subject to additional environmental review and permitting. The Reclamation Plan includes a Financial Assurance Cost Estimate to reclaim the project-related surface disturbance to a condition suitable for industrial uses and open space as allowed by Nevada County Land Use and Development Code, Section L-II 2.5 – Industrial Uses.

As proposed the applicant would enter into a Development Agreement (DA) with the County that establishes a framework for: (1) how the Use Permit and Reclamation Plan (CUP19-004) would apply to the mining and reclamation phasing of the project; and (2) costs and timing for the payment of a cents per ton fee, pursuant to CUP19-004 and the scope of those activities. The DA provides for a twenty (20) year timeframe, with two extensions of ten (10) years permitted. Additionally, pursuant to the DA and Nevada County Land Use and Development Code Section L-II 5.18.F., the Planning Commission will review the DA every twelve (12) months after the date the agreement is entered into. Among other items, the Planning Commission will determine, on the basis of substantial evidence, whether the applicant has complied in good faith with the terms and conditions of the DA during the period under review. Therefore, as proposed, the project would be in compliance with Policy 17.7 of the General Plan.

General Plan Policy 17.15 – Mineral Management Element

Surface mining is conditionally permitted only in compatible General Plan designations as defined herein and on parcels zoned "ME". Said mining shall be allowed only after impacts on the environment and nearby land uses have been adequately reviewed and found to be in compliance

with CEQA. Of particular importance shall be the impact of the operation on nearby land uses, water quantity and quality, noise and vibration impacts, and traffic associated with the operation. All other related impacts shall also be addressed.

The proposed project includes a proposed Rezone of the Brunswick Industrial Site from M1-SP to M1-ME and is subject to environmental review consistent with the CEQA. The project would comply with all applicable federal, state, and local regulations in addition to implementation of mitigation measures required by the Draft EIR and associated mitigation measures, as well as conditions of approval.

The Draft EIR identifies the project effects on water quantity and quality in Chapter 4.8, Hydrology and Water Quality; noise and vibration impacts are addressed in Chapter 4.10, Noise and Vibration; and traffic effects are addressed in Chapter 4.12, Transportation. Therefore, as proposed, the project would be in compliance with Policy 17.15 of the General Plan.

General Plan Policy 17.24 - Mineral Management Element

Regardless of the General Plan designation, subsurface mining shall be conditionally permitted throughout the County. Said mining shall be allowed only after impacts on the environment and affected surface land uses have been adequately reviewed and found to be in compliance with CEQA. Of particular importance shall be the impact of the operation on surface land uses, water quantity and quality, noise and vibration, land subsidence, and traffic associated with surface access. All other related impacts shall also be addressed.

The Draft EIR addresses any potential impacts including the operation on surface land uses, water quantity and quality, noise and vibration, land subsidence, and traffic associated with subsurface access to allow for underground mining and gold mineralization processing for the Idaho-Maryland Mine. All other related impacts have also been addressed in the Draft EIR and as further outlined above under the above Policy 17.15 Mineral Management discussion. Thus, given the existence of nearby residential development, the engineering fill pad alone is probably not enough to render the demarcation line between the Community and Rural Regions broken. Regarding parking, there are automobiles parked at nearby residential uses. It is thus improbable that these parked automobiles can represent a rural way of life while the existence of additional parked cars at the proposed project site would antagonize that rural way of life. The only feasible argument that the project appears to not 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 General Plan Land Use 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. Therefore, the project would be consistent with Policy 17.24 as outlined above.

Inconsistency with Key General Plan Policies

General Plan Policy 1.1.1 – Land Use Element

Maintain a distinct boundary between Rural and Community Regions.

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. Furthermore, the proposed project is adjacent to the boundaries of the City of Grass Valley and within their Sphere of Influence.

General Plan Policy 1.1.2 - Land Use Element

The General Plan divides the County into Community Regions and Rural Regions. All the land areas of the County are placed in one of these regions. Within the Rural Regions, growth is limited to those types and densities of development which are consistent with the open, rural, lifestyle, pastoral character and natural setting and surrounding land use patterns which exists in these areas. Within the Community Regions, balanced growth is encouraged to provide managed housing, community, located for convenience, efficiency, and affordability.

Inconsistency with Rural Regions

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.

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.

Meanwhile, the USF designation stands 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, as proposed the Use Permit would not be consisted with General Plan Policy 1.1.2.

General Plan Policy 1.4.2 - Land Use Element

Development within the Community Regions shall be consistent with the overall rural quality of life in the County, as demonstrated through sensitivity to resource constraints, provision of interwoven open space as a part of development, and community design which respects the small town or village character of the Community Regions. These criteria shall be accomplished through application of the Comprehensive Site Design Standards in review of discretionary and ministerial projects.

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. Included is recommended Condition of Approval A.20 to break up the rear elevations of the processing plant to conform to the Western Nevada County Design Guidelines. Condition of Approval A.19 is also recommend ensuring that the colors are earth tone and Mitigation Measure 4.1-2C, is recommended to require the submission of a final Landscaping Plan along with standard Condition of Approval A.18 being recommended to ensure that lighting complies with International Dark Sky Association standards.

However, as proposed the applicant's request for a Variance to increase building heights (to a maximum of 165 feet for the head frame building) where 45 feet is required and the intensity of the mining and industrial use, would be inconsistent with semi-rural character of the area as outlined in the Central Theme 1 discussion above.

Thus, as proposed the Use Permit would not be consistent with General Plan Policy 1.4.2.

General Plan Policy 17.6 - Mineral Element

Encourage extraction of mineral resources in compatible areas prior to intensified urbanization or conversion to other incompatible land use development.

The project as proposed would be a gold mining operation on a site previously used for gold mining, and on sites 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 the Central Theme 1 discussion in the Staff Report above 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.

Consistency with Key Zoning Policies:

The M1 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.

The proposed project would allow for subsurface mining activities which are an allowed use in all base zoning districts, subject to the approval of a Use Permit as required by Nevada County LUDC, Section L-II 3.21 – Subsurface Mining. In addition, pursuant to Section L-II 3.21, surface access to subsurface mining activities, including vent and escape shafts, are allowed in the AG, FR, M1, M2, P and PD base zoning districts, subject to the approval of a Use Permit. LUDC Section L-II 3.22 (B.19) – Surface Mining includes processing as a surface mining operation and LUDC Section L-II 3.22 (D.3) allows surface mining, which includes processing plant operations, in the M1 Zoning District, and where the subject parcel is zoned with the ME Combining District, subject to the approval of a Use Permit and Reclamation Plan. The proposed project includes a subsurface estate of approximately 2,585 subsurface acres, to which the applicant retains the mineral rights, and which is comprised of many different types of base zoning districts. However, subsurface mining activities are allowed in all base zoning districts, subject to the approval of a Use Permit, as allowed by Nevada County LUDC, Section L-II 3.21 – Subsurface Mining.

The project as proposed would be consistent with an industrial use because mining would produce gold concentrates. Subsurface mining is allowed in all Industrial Zoning Districts, surface access to subsurface mining is allowed in the M1 Zoning District (LUDC Section L-II 3.21), and surface mining is allowed in the M1 Zoning District (Section L-II 3.22). The Brunswick Industrial Site includes buffer zones of 50 feet to the south and 150 feet to the west, that include areas of mature forest to provide buffering from adjacent land uses. Furthermore, the subject parcels within the both the Brunswick and Centennial Industrial Sites have a General Plan Land Use Designation of Industrial and a General Plan Land Use Map Amendment is not required. The site's M-1 zoning requires street setbacks of a minimum of 10 feet with an average of 20 feet. Interior setbacks are not required. As shown on the proposed Brunswick Industrial Site Plan (Attachment 3), the closest structure to Brunswick Road has a setback of 107 feet. The closest structure to Idaho Maryland Road is setback 173 feet. The Brunswick Industrial Site meets the setbacks as outlined in Table L-II 2.5.E of the LUDC.

The ME Combining District allows for surface mining and provides public awareness of the potential for surface mining to occur where adequate information indicates that significant mineral deposits are likely present. This District should be used only on those lands that are within any of the compatible Nevada County GP designations and that are not in a residential zone. All uses in the ME Combining District are subject to approval of Use Permit with a Reclamation Plan and require environmental review which is consistent with CEQA. In the M1 Zoning District where the district symbol is followed by, as part of such symbol, the letters ME, the extraction of minerals by open mining, quarrying, dredging, and related operations on the surface, including comminution, concentration, processing, waste disposal, tailing disposal and the reclamation thereof shall be conditionally allowed subject to the requirement outlined in LUDC Section 3.22 and are similar to Mineral Management Element of the General Plan.

Inconsistency with Key Zoning Policies

The proposed project includes subsurface mining activities which are an allowed use in all base zoning districts, subject to the approval of a Use Permit as required by Nevada County LUDC, Section L-II 3.21 – Subsurface Mining. In addition, pursuant to Section L-II 3.21, surface access to subsurface mining activities, including vent and escape shafts, are allowed in the AG, FR, M1, M2, P and PD base zoning districts, subject to the approval of a Use Permit. Thus, as proposed, both the subsurface mining activities and the surface access to subsurface mining activities uses are allowed within the M1 Zoning District, subject to the approval of a Use Permit, and would therefore be consistent with the M1 Zoning District allowed uses pursuant to Nevada County LUDC. LUDC Section L-II 3.22 (B.19) includes processing as a surface mining operation and LUDC Section L-II 3.22 (D.3) allows surface mining, which includes processing plant operations, in the M1 zone district, and where the property is zoned ME, subject to the approval of a Use Permit and Reclamation Plan. The proposed project includes a subsurface estate of approximately 2,585 subsurface acres, to which the applicant retains the mineral rights, and which is comprised of many different types of base zoning districts. However, subsurface mining activities are allowed in all base zoning districts, subject to the approval of a Use Permit, as allowed by Nevada County LUDC, Section L-II 3.21 – Subsurface Mining.

The Brunswick Industrial Site is surrounded primarily by property zoned Residential Agriculture (RA), with property which is also zoned Single-Family Residential (R-1), thus the balancing of the land use pattern is very important. The above ground uses on the Brunswick Industrial Site would be located on areas of the site where prior lumber mill and mining processing occurred. All activities would be within enclosed areas to minimize noise and dust for surrounding uses. The buildings would total approximately 126,000 square feet, but would be separated into smaller buildings, the largest of which would be the process plant at approximately 29,200 square feet. Smaller buildings located throughout the site, create a more rural character than larger buildings. The headframe for the shaft, however, extends to approximately 165 feet in height. The headframe for the service shaft is approximately 80 feet high, and the process plant is 64 feet in height. A Variance has been requested to exceed the 45-foot height limit of the Industrial Zone.

The Centennial Industrial Site is zoned M1 and is located adjacent to parcels which zoned Light-Industrial (M1) and Light-Industrial with Site Performance Combining District (SP). In addition, the Centennial Industrial Site is also located adjacent to parcels which are located within the City Limits of the City of Grass Valley and are zoned Heavy Commercial (C-3) Light-Industrial (M1) and Whispering Pines Specific Plan (SP1-B). Thus, similar to the Brunswick Industrial Site, the balancing of land use patterns is very important. As proposed, the Centennial Industrial Site would be used for the depositing of engineered fill that would be transported from the Brunswick Industrial Site and placed on the site, under the baseline condition described in the Draft EIR and Final EIR and as further outlined above in this Staff Report. Activities at the Centennial Industrial Site would occur, provided that the separate DTSC cleanup project has been approved by DTSC and a Letter of No Further Action issued. In that case, engineered fill would be transported by truck from the Brunswick Industrial Site and placed on approximately 44 acres of the Centennial Industrial Site to create approximately 37 acres for potential future industrial use. The remaining approximately 12 acres would remain as a private driveway for site access and open space. The open space area would include Wolf Creek, a 100-foot setback for riparian area on Wolf Creek, and an undisturbed area providing protection for identified special-status plant species.

As proposed mining operations will 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 also be considered inconsistent with the rural character and quality of life of the surrounding area. While the project site is zoned Light Industrial (M1) and as proposed, the Brunswick Industrial Site would be Rezoned to add the Mineral Extraction (ME) Combining District, there are many types of industrial development. The purpose of the Light Industrial Zoning District is to provide 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 adequate setbacks from adjacent land uses, the intensity of the mining operations exceed those that are compatible with the rural character of the surrounding semi-rural area. Therefore, the proposed project is inconsistent with the Light Industrial Zoning District, as it relates to compatibility.

Reclamation Plan:

The applicant has submitted a Reclamation Plan and Financial Assurance Cost Estimate to reclaim project-related surface disturbance to a condition suitable for industrial uses and open space as allowed by Nevada County LUDC, Section L-II 2.5 – Industrial Uses, Table L-II 2.5 D – Light Industrial. The proposed Reclamation Plan outlines that upon completion of underground mining, access to underground workings would be closed consistent with federal and state regulation. Upon completion of above ground gold processing and off-site sale of engineered fill, the Brunswick Industrial Site would be reclaimed to open space and industrial uses. Most of the above ground facilities and structures would remain to support future post-mining industrial uses on the site should they be separately permitted through the County. All paved surfaces, including access roads, parking areas, and driveways would remain to facilitate access to the site and building. The Brunswick and Centennial Industrial Sites fill slopes would be relegated with an erosion-control seed mix to reduce erosion and maintain fill slope stability. The fill pads would be maintained until they are used or sold for future industrial purposes.

The Reclamation Plan is consistent with the following General Plan Policy:

General Plan Policy 17.8 – Mineral Element

A reclamation plan consistent with the State Surface Mining and Reclamation Act standards, is required for all mining operations. Reclamation shall:

1. *Prevent, mitigate, or minimize adverse effects on the environment.*
2. *Encourage the production and conservation of minerals.*
3. *Provide for the protection and subsequent beneficial use of mined and reclaimed land.*
4. *Eliminate residual hazards to public health and safety.*
5. *Ensure that mined lands are claimed on a timely basis to a usable condition that is readily adaptable for alternative land uses.*
6. *Avoid the environmental and legal problems created by improperly abandoned mines.*

As proposed, the applicant will enter into a Reclamation Plan to be approved by the California Department of Conservation consistent with the State Surface Mining and Reclamation Act. The Reclamation Plan is consistent with the State Surface Mining and Reclamation Act standards and policies and is consistent with the Nevada County General Plan.

As required, the applicant has submitted a Reclamation Plan to be approved by both Nevada County as the Lead Agency and the California Department of Conservation, Division of Mine Reclamation (DMR). All Reclamation Plans shall comply with Article 4 Site Development Standards of the Nevada County Land Use and Development Code and the provisions of the Surface Mining and Reclamation Act (SMARA) (Sections 2772 and 2773) and SMARA's implementing regulations (CCR Sections 3500-3505). The Project's Reclamation activities will be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance. Interim reclamation may also be required for mined lands that have been disturbed and that may be disturbed again in future operations. Reclamation may be done on an annual basis, in stages compatible with continuing operations, or on completion of all excavation, removal, or fill, as approved by the County. Each phase of reclamation has been described in the

Reclamation Plan and will include (a) the beginning and expected ending dates for each phase; (b) all reclamation activities required; (c) standards for measuring completion of specific reclamation activities; and (d) estimated costs for completion of each phase of reclamation.

To ensure that reclamation will proceed in accordance with the approved Reclamation Plan, Condition of Approval A.11 and A.12 would be required requiring Security that will only be released upon satisfactory performance. The applicant may post Security in the form of a surety bond, trust fund, irrevocable letter of credit from an accredited financial institution, or other method acceptable to the County and the State Mining and Geology Board as specified in State regulations, and which the County reasonably determines are adequate to perform reclamation in accordance with the surface mining operation's approved Plan.

Thus, as proposed, the Reclamation Plan would be consistent with General Plan Policy 17.8.

Inconsistency with Key General Plan Policies

General Plan Policy 1.1.1 – Land Use Element

Maintain a distinct boundary between Rural and Community Regions.

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. Furthermore, the proposed project is adjacent to the boundaries of the City of Grass Valley and within their Sphere of Influence.

General Plan Policy 1.1.2 - Land Use Element

The General Plan divides the County into Community Regions and Rural Regions. All the land areas of the County are placed in one of these regions. Within the Rural Regions, growth is limited to those types and densities of development which are consistent with the open, rural, lifestyle, pastoral character and natural setting and surrounding land use patterns which exists in these areas. Within the Community Regions, balanced growth is encouraged to provide managed housing, community, located for convenience, efficiency, and affordability.

Inconsistency with Rural Regions

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.

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.

Meanwhile, the USF designation stands 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, as proposed the Reclamation Plan would not be consisted with General Plan Policy 1.1.2.

General Plan Policy 1.4.2 - Land Use Element

Development within the Community Regions shall be consistent with the overall rural quality of life in the County, as demonstrated through sensitivity to resource constraints, provision of interwoven open space as a part of development, and community design which respects the small town or village character of the Community Regions. These criteria shall be accomplished through application of the Comprehensive Site Design Standards in review of discretionary and ministerial projects.

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. Included is recommended Condition of Approval A.20 to break up the rear elevations of the processing plant to conform to the Western Nevada County Design Guidelines. Condition of Approval A.19 is also recommend ensuring that the colors are earth tone and Mitigation Measure 4.1-2C, is recommended to require the submission of a final Landscaping Plan along with standard Condition of Approval A.18 being recommended to ensure that lighting complies with International Dark Sky Association standards.

However, as proposed the applicant's request for a Variance to increase building heights (to a maximum of 165 feet for the head frame building) where 45 feet is required and the intensity of the mining and industrial use, would be inconsistent with semi-rural character of the area as outlined in the Central Theme 1 discussion above.

Thus, as proposed the Reclamation Plan would not be consistent with General Plan Policy 1.4.2.

General Plan Policy 17.6 - Mineral Element

Encourage extraction of mineral resources in compatible areas prior to intensified urbanization or conversion to other incompatible land use development.

The project as proposed would be a gold mining operation on a site previously used for gold mining, and on sites 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 the Central Theme 1 discussion in the Staff Report above 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.

Consistency with Key Zoning Policies

The ME Combining District Rezone request would be consistent with the Light-Industrial (M1) Zoning District, subject to the approval of Use Permit with a Reclamation Plan and subject to the requirements of Nevada County Land Use and Development Section 3.22. Furthermore, Section 3.22.D of the LUDC requires that no person shall conduct surfacing mining operations unless the County has first approved a Use Permit, Reclamation Plan, and financial assurances for reclamation and shall be pursuant to the following findings:

1. Comply with the policies of the GP Chapter 17: Mineral Management and standards in Chapter 4 Site Development Standards; and,
2. Provides for periodic reviews of the Permit by the Planning Agency to ensure compliance with Permit conditions. Said reviews time periods shall not exceed five (5) years with the first review not to exceed five (5) years from approval of the Permit; and,
3. Include provisions for management of water quality and quantity based on the following standards:
 - a. Require the conservation of on-site water during mining operations.
 - b. Required that off-site water discharge complies with State water quality standards.
 - c. Require that any increase or decrease of off-site discharge is not detrimental to the downstream environment or downstream water uses.
 - d. When the Planning Agency determines, based on relevant expert testimony, or other available information, that existing surface or subsurface water quality or quantity may be threatened, require a comparable supply of water to nearby homes and business through accessible forms of Security or alternative sources of water. Where water quantity and quality problems occur, an immediate water supply shall be provided by the operator until the source of the problem is determined. The burden of proof shall be on the operation to show that the mining operation did not create the water problem. If it is determined that the operator is at fault, impacted owners shall be compensated by the operator.

As proposed, the Reclamation Plan would be consistent with some zoning provisions of the Nevada County Land Use and Development Code and provides for annual review by the Planning Commission for compliance with the permit conditions. Furthermore, the Reclamation Plan provides for: (1) conservation of on-site water; (2) requires that off-site water discharges comply with State water quality standards; (3) any increase in off-site discharge will not be detrimental to the downstream water uses; and (4) ensures that water quality or quantity for nearby homes and business cannot be negatively impacted.

MANAGEMENT PLANS

(MGT19-0039; MGT19-0040; MGT19-0040; MGT20-0009; MGT20-0010; MGT20-0011; MGT20-0012; MGT20-0013):

The adopted Comprehensive Site Development Standards, contained in the Land Use and Development Code (Chapter II, Article 4), were established and are implemented as directed by Action Policy 1.17 of the 1995 General Plan. These standards are used during the “project site review process” to provide a consistent approach for addressing the presence of sensitive environmental features and/or natural constraints, clustering and provisions of open space as a part of development, the potential for land use conflicts between uses, and the potential for public health hazards. Applicable to all development projects in the County, the Comprehensive Site

Development Standards have been designed to be protective of the County's unique character, providing guidance for:

- a. Protection of environmentally sensitive resources;
- b. Provision of open space as part of site development;
- c. Prevention and reduction of fire hazards;
- d. Maintenance and enhancement of vegetation and landscaping;
- e. Prevention and reduction of flood hazards;
- f. Transitions between uses and multiple-use site development;
- g. Community design;
- h. Buffering and screening to mitigate adverse effects;
- i. Incentives to provide for access to public resources and open space; and
- j. Protection of important agricultural, mineral, and timber resources.

These standards shall identify the basic requirements for site development in the County, including, at a minimum, standards to mitigate the impact of development on the following environmentally sensitive resources:

- Wetlands (as delineated in the U.S. Fish and Wildlife Service National Wetlands inventory);
- Major deer migration corridors, critical range, and critical fawning areas (as defined by the State Department of Fish and Wildlife's Migratory Deer Range Maps);
- Landmark oaks, (defined as any oak 36" or greater at dbh);
- Landmark oak groves, (defined as areas with 33+% canopy closure based on the State Department of Forestry and Fire Protection's Hardwood Rangeland Maps);
- Rare and endangered species, (as found in the California Natural Diversity Database and the California Native Plant Society Inventory of Rare and Endangered Vascular Plants of California);
- Riparian corridors within 100 feet of intermittent or perennial water courses (as shown the U.S. Geological Survey Quadrangle Topographic Maps);
- Significant cultural resources (as may be defined based upon recommendations by the Native American Heritage Commission or recognized Native American Group, Nevada County Landmarks Commission, or the Nevada County Historical Society);

- Floodplains precluding development and land disturbance within floodways and restricting development within the floodway fringe, through the establishment of floodplain setbacks and associated development regulations (as defined by the Federal Emergency Management Agency’s Flood Insurance Rate Maps);
- Important agricultural lands, (as defined by the State Department of Conservation’s Important Farmlands Map);
- Significant mineral areas, (as defined by the State Division of Mines and Geology ‘s Nevada County Mineral Classification Report Maps referred to as Mineral Resource Zones -2);
- Earthquake faults, (as defined by the State Division of Mines and Geology’s Fault Map of California the United States Bureau of Reclamation’s Seismotectonic Study of the Truckee/Lake Tahoe Area);
- Avalanche hazards (as defined by the Norman Wilson Avalanche Hazard Study);
- Steep slopes (30+%);
- Areas with high erosion potential (as determined by the United States Department of Agriculture’s Soil Surveys of Nevada County and the Tahoe National Forest);
- Areas subject to fire hazards, (as defined by the State Department of Forestry and Fire Protection’s Fire Hazard Severity Map); and
- Visually important ridgelines and viewsheds, (as defined by standards developed by Policy 18.3 of the General Plan).

In accordance with Nevada County Land Use and Development Code, Seven Management Plans have been prepared for the proposed project. The Management Plans are based on supporting technical studies that were prepared by technical experts in their field, and peer reviewed by the County’s third-party biological experts. Management Plans prepared for the proposed project include the following:

- *Watercourse/Wetlands/Riparian Areas Management Plans (Centennial and Brunswick Industrial Sites)*
 - Allow for disturbance within the required 100-foot setback from the Riparian Area of Perennial Watercourse, pursuant to the Nevada County LUDC, Section L-II 4.3.17, at the Brunswick and Centennial Industrial Sites.
- *Habitat Management Plan for the Pine Hill Flannelbush (Fremontodendron decumbens) – Centennial Industrial Site Only*
 - Minimize the direct impact to special-status plant species, pursuant to the Nevada County LUDC, Section L-II 4.3.12, at the Centennial Industrial Site.
- *Management Plan for Steep Slopes and High Erosion Potential (Centennial and Brunswick Industrial Sites)*

- Allow development within locations of areas of steep slopes that are in excess of 30 percent at both the Brunswick and Centennial Industrial Sites, pursuant to the Nevada County LUDC, Section L-II 4.3.13.
- *Idaho-Maryland Mine Project – Portion of Brunswick Industrial Site: Management Plan for Potential Seismic Hazards*
 - Allow for development within a building setback fault zone at the Brunswick Industrial Site, pursuant to the Nevada County LUDC, Section L-II 4.3.8.
- *Floodplain Management Plan for Centennial Industrial Site of the Idaho Maryland Mine Project*
 - Includes recommended mitigations and conditions that must be complied with to ensure that the operations at the Centennial Industrial Site would not result in adverse effects to the 100-year floodplain associated with Wolf Creek.

In addition, the DEIR included an analysis of the proposed project's potential to impact environmentally sensitive resources, and provided mitigation measures to address potential impacts, as necessary. The following includes summary of the analysis provided within the DEIR for each environmentally sensitive resource.

- **Wetlands:** Impact 4.4-3, included in Chapter 4.4, Biological Resources, of the DEIR assessed whether the proposed project would have a substantial adverse effect on riparian habitat or other sensitive natural community, or State or Federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means. As discussed therein, the proposed project would result in impacts to several aquatic features, including permanent impacts to ten (10) mapped wetland features. It is estimated that approximately 0.57-acre of mapped wetlands would be permanently filled. However, the DEIR concluded that implementation of Mitigation Measures 4.4-3(a) through 4.4-3(d) would reduce all impacts to aquatic resources to a less-than-significant level.
- **Major deer migration corridors, critical range, and critical fawning areas:** Impact 4.4-4 included in Chapter 4.4, Biological Resources, of the DEIR assessed whether the proposed project would interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites. Known migratory deer ranges outlined in the Nevada County General Plan were reviewed as part of the DEIR for deer migration corridors, critical range, and critical fawning areas. According to the Migratory Deer Ranges Nevada County General Plan map, the Centennial Industrial Site and Brunswick Area are located in an area of potential Deer Winter Range. However, field surveys conducted for the proposed project did not record any observations of deer. In addition, the DEIR noted that the Centennial Industrial Site and Brunswick Area do not contain any known major deer migration corridors, known deer holding areas, nor critical deer fawning areas. Based on the analysis included in the DEIR, the proposed project was determined to have a less-than-significant impact related to interfering substantially with the movement of any wildlife.

- **Landmark oaks and landmark oak groves:** Impact 4.4-4 included in Chapter 4.4, Biological Resources, of the DEIR assessed whether the proposed project would conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance, or have a substantial adverse effect on the environment by converting oak woodlands. As discussed therein, the Centennial Industrial Site and Brunswick Area do not contain protected oak resources pursuant to the Nevada County LUDC. In addition, the DEIR determined that the Centennial Industrial Site and Brunswick Area do not contain protected oak resources pursuant to the State of California oak woodlands protections set forth in Public Resources Code (PRC) Section 21083.4. As such, the DEIR determined that the proposed project would not conflict with local policies and/or ordinances that protect biological resources, including tree resources, and a less-than-significant impact would occur.
- **Rare and endangered species:** Impacts 4.4-1 and 4.4-2 included in Chapter 4.4, Biological Resources, of the DEIR assessed whether the proposed project would have a substantial adverse effect on special-status plant or special-status wildlife species either directly or through habitat modifications. With regard to special-status plant species, the DEIR determined that an estimated 18 individual Pine Hill flannelbush plants would be impacted by proposed engineered fill placement at the Centennial Industrial Site. In addition, suitable habitat for other potentially occurring special-status plant species would be impacted at both the Centennial Industrial Site and Brunswick Area. With regard to special-status wildlife species, the DEIR determined that both the Centennial Industrial Site and the Brunswick Area contain aquatic and other natural habitats that could support a variety of special-status wildlife species, including foothill yellow-legged frog, western pond turtle, California red-legged frog, California black rail, coast horned lizard, special-status bat species, and non-special status raptors and migratory birds protected under the Migratory Bird Treaty Act (MBTA). Nonetheless, the DEIR concluded that implementation of Mitigation Measures 4.4-1(a), 4.4-1(b), and 4.4-2(a) through 4.4-2(g) would reduce all impacts to special-status species to a less-than-significant level.
- **Significant cultural resources:** Impacts 4.5-1 and 4.5-2, included in Chapter 4.5, Cultural Resources, of the DEIR assessed whether the proposed project would cause a substantial adverse change in the significance of a historical or archeological resource pursuant to CEQA Guidelines, Section 15064.5. As discussed therein, the underground workings of the Idaho-Maryland Mine Company are recommended as a contributing element of the Idaho-Maryland Historic District under criteria A/1 and C/3 of the National Register of Historic Places (NRHP)/ California Register of Historic Resources (CRHR). Because the proposed extraction efforts of the Idaho-Maryland Mine Project would alter the underground workings the DEIR concluded that the proposed project could result in a substantial adverse change in the significance of a historical resource. In addition, while archeological resources have not been previously recorded within the project site area, the DEIR determined that the possibility exists that previously unknown resources could be discovered within the project site during construction and/or operational mining activities. Therefore, the proposed project was determined to have the potential to uncover undocumented archaeological resources and adversely affect such resources if not properly treated. Nonetheless, the DEIR concluded that implementation of

Mitigation Measures 4.5-1(a), 4.5-1(b), and 4.5-2 would reduce all impacts to significant cultural resources to a less-than-significant level.

- **Floodplains:** As noted in Impact 4.8-5, included in Chapter 4.8, Hydrology and Water Quality, of the DEIR, according to the FEMA flood hazard maps for the project area, Maps 06057C0631E, 06057C0632E, 06057C0633E, 06057C0650E (FEMA, 2019), the only part of the project site that is located within a Special Flood Hazard Area (SFHA) is the northern edge of the Centennial Industrial Site along Wolf Creek. The SFHA encompasses 2.31 acres on the Centennial Industrial Site. The DEIR determined that the project footprint has been designed to remain outside the SFHA (100-year floodplain) of Wolf Creek. However, approximately 0.55-acre of the engineered fill placement encroaches into the County of Nevada mandated 100-foot zone beyond the 100-year floodplain limit, necessitating a Floodplain Management Plan. Therefore, the DEIR concluded that the proposed ground disturbance within the 100-foot buffer zone from the SFHA 100-year floodplain could result in significant impact. However, according to the DEIR, Mitigation Measure 4.8-5 would reduce all floodplain impacts to a less-than-significant level.
- **Important agricultural lands:** Impact 4.2-1 included in Chapter 4.2, Agriculture and Forestry Resources, of the DEIR included an assessment of the proposed project's potential to convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use, or involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use, and determined that no impact would occur. As discussed therein, according to the Farmland Mapping and Monitoring Program (FMMP), the Brunswick Industrial Site is mapped as both Urban Built-Up Land and Other Land. The Centennial Industrial Site is primarily mapped as Other Land, with the exception of a small portion of the western boundary of the site, which is mapped as Urban Built-Up Land. Thus, the DEIR determined that implementation of the proposed project would not occur on any land designated as Farmland and would not convert Farmland to non-agricultural use.
- **Significant mineral areas:** As discussed under Impact 4.6-6 in Chapter 4.6, Geology, Soils, and Mineral Resources, of the DEIR, the majority of the proposed subsurface mining areas are located within areas designated by the state as Mineral Resource Zone (MRZ) MRZ-2, with some outlying areas located within MRZ-3. However, the Resource Standards related to Mineral Areas in the Nevada County Land Use and Development Code are intended to protect significant mineral areas (MRZ 2) from incompatible land uses. The proposed project's expressed purpose is to extract minerals within known Significant Mineral Areas; thus, a management plan is not required, and the project would provide availability of known mineral resources important to the State, rather than result in loss of availability of a known mineral resource. The proposed project would make these known gold mineral resources available by dewatering the Idaho-Maryland Mine and recommencing mining operations. As such, the DEIR determined that the proposed project would result in a less-than-significant impact related to the loss of availability of a known mineral resource that would be of value to the

region and the residents of the State, or of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan.

- **Earthquake faults:** Impact 4.6-1 included in Chapter 4.6, Geology, Soils, and Mineral Resources, of the DEIR included an assessment of the proposed project's potential to directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, strong seismic ground shaking, seismic-related ground failure, liquefaction, or landslides. As discussed therein, the project site is not located within an (Alquist-Priolo) active fault zone. However, based on a review of historic geologic maps prepared for the project area, evidence suggests that there is likely a fault located on or near the site within 600 feet of the New Brunswick shaft. The DEIR details that whether or not a fault might exist, there is no evidence that this area is now seismically active. Nonetheless, out of an abundance of caution, the County has concluded that a significant impact could occur with respect to exposing people or structures to the risk of loss, injury, or death involving rupture of an earthquake fault, strong ground shaking, ground failure, liquefaction, or landslides. Mitigation Measure 4.6-1 was included in the DEIR to reduce all impacts associated with earthquake faults to a less-than-significant level.
- **Avalanche hazards:** According to the Nevada County General Plan Master Environmental Inventory, avalanche hazard areas are generally located on high, mountainous slopes and terrain at elevations above 7,000 feet. According to a study prepared by Snow Consultant Services in 1982, which identified avalanche hazard areas within Nevada County, the project site is not located within an avalanche hazard area. As shown on Figure 8-2 of the Nevada County General Plan Master Environmental Inventory, avalanche hazard areas include portions of the Donner Lake, Tahoe-Donner, and Soda Springs areas. As such, a discussion of avalanche hazards was not included within the DEIR.
- **Areas with Steep slopes and high erosion potential:** As discussed in Chapter 4.6, Geology, Soils, and Mineral Resources, of the DEIR, both the Centennial Industrial Site and the Brunswick Industrial Site include areas that contain steep slope gradients. As such, two Management Plans were prepared to address steep slopes/high erosion potential on the Centennial and Brunswick Industrial Sites and minimization of project impacts to these constraints. As discussed under Impact 4.6-2 of the DEIR, Section 5 of each management plan provides mitigation measures that would ensure appropriate erosion and sediment control during disturbance within areas of steep slopes and high erosion hazard areas, including but not limited to implementation of the Erosion and Sediment Control Plans (ECP) prepared for the Centennial and Brunswick Industrial Sites. However, the DEIR concluded that without implementation of the mitigation measures in the Steep Slope and High Erosion Potential Management Plans, the proposed project could have a significant impact related to substantial soil erosion or the loss of topsoil. Therefore, Mitigation Measure 4.6-2 was included in the DEIR to ensure all impacts associated with steep slopes and high erosion potential would be reduced to a less-than-significant level.
- **Areas subject to fire hazards:** According to Chapter 4.13, Wildfire, of the DEIR, both the Centennial and Brunswick Industrial Sites are located on lands classified as being within a

Very High Fire Hazard Severity Zone. As discussed under Impacts 4.13-1, 4.13-3, and 4.13-4, the proposed project would not substantially impair an adopted emergency response plan or emergency evacuation plan, require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment, or expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes. However, as discussed under Impacts 4.13-2, the Centennial and Brunswick Industrial Sites have limited steeply-sloping topography that is known to exacerbate wildfire risk and spread. The DEIR noted that incorporation of defensible space around proposed structures at the Brunswick Industrial Site, as well as designing buildings in conformance with Chapter 7A of the CBC, would help to slow the spread of wildfire moving through the area. In addition, proposed improvements at both Sites would reduce the vegetation fuel load in the area. Nevertheless, vegetation would remain on both Sites and would need to be managed on an ongoing basis. In addition, use of hydrocarbon-powered heavy-equipment on-site could exacerbate wildfire risk. Therefore, the DEIR concluded that without implementation of a vegetation management plan, the proposed project could have a significant impact related to exacerbating wildfire risks, and thereby exposing project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire. Mitigation Measure 4.13-2 was included in the DEIR to ensure all impacts associated with wildfire would be reduced to a less-than-significant level.

- **Visually important ridgelines and viewsheds:** As discussed under Impact 4.4-1 in Chapter 4.1, Aesthetics, of the DEIR, the County General Plan does not identify any scenic vistas, including mountain ranges, ridgelines, or bodies of water as viewed from a highway, public space, or other area designated for the express purpose of viewing and sightseeing, in the vicinity of the Centennial or Brunswick Industrial sites. The proposed project's potential to substantially degrade the existing visual character or quality of public views of the site and its surroundings was addressed under Impact 4.1-2 of the DEIR. As discussed therein, 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. Therefore, the DEIR concluded that the project would substantially degrade the existing visual character or quality of public views of the project sites or the site surroundings, or conflict with applicable zoning and other regulations governing scenic quality, and a significant impact would occur. While Mitigation Measure 4.1-2 was included to reduce the aforementioned impacts by requiring more dense plantings along the project frontages to screen project structures to the maximum extent feasible, the DEIR concluded that given the proposed heights of the structures and the permanent alteration of the views, the impact would remain significant and unavoidable.

GENERAL PLAN AND ZONING CODE CONSISTENCY CONCLUSION:

The County shall approve a project for a discretionary permit only if it can be demonstrated that the project, as designed and sited, meets the intent of the performance criteria.

The General Plan Guidelines published by the State Office of Planning and Research defines consistency as follows, “An action, program, or project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment.” The determination that the project is consistent or inconsistent with the Nevada County General Plan policies is ultimately the decision of the Nevada County Board of Supervisors. Furthermore, although some areas of general inconsistency with County policies is noted, the County has the ability to impose additional requirements or conditions of approval on the project, at the time of its approval, to bring a project into more complete conformance with existing policies.

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 Headframe which is proposed at a height of 165, where 45 feet is required by the Light Industrial Zoning District. As proposed 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 also be considered inconsistent with the rural character and quality of life of the surrounding area.

While the project site is designated as Industrial (IND) on the General Plan Land Use Map and zoned Light-Industrial, there are many types of industrial development. The purpose of 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 adequate setbacks from adjacent land uses, the intensity of the mining operations exceed those that are compatible with the rural character of the surrounding semi-rural area.

Subsequently in the preparation of the proposed specific 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. Landscape trees would be planted to mitigate impacts 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.

In addition, while the proposed project has been analyzed in the EIR and accompanying technical studies, the policy question remains whether this level of mining and processing activity is appropriate in its proposed locations, given that the mining operations would occur 24 hours a day,

seven days a week and 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, which would appear to be considered inconsistent with the rural character and quality of life of the surrounding neighborhoods within the County.

As outlined above, it appears that the project as proposed could be considered to be consistent with several of the General Plan Goals and Policies, however, given the result, in reviewing the Central Themes of the General Plan and well as the Goals and Policies, it appears that project as proposed cannot be found to be consistent with all of the Goals and Policies that encourage development to be compatible with the existing rural character of the neighborhoods or communities where the development is being proposed while maintaining the rural quality of life and compatibility. Because of this, staff believes that the required findings pursuant to Nevada County Land Use and Development Code, Section L-II 5.5.2.C.1 cannot be made, which would require the Planning Commission to find that the project is consistent with the General Plan. Specifically, the project is found to be inconsistent with the following General Plan Policies:

Rezone: Land Use Element Policies 1.1.1; 1.1.2 & Mineral Management Element Policy: 17.6.

Use Permit: Land Use Element Policies 1.1.1; 1.1.2; 1.4.2 & Mineral Management Element Policy: 17.6.

Reclamation Plan: Land Use Element Policies 1.1.1; 1.1.2; 1.4.2 & Mineral Management Element Policy: 17.6

Furthermore, as has been presented in the staff report discussion above, it could be determined that the proposed project can be found to be consistent with several of the General Plan Goals and Policies including:

Rezone: Land Use Element Policies: 1.1.3; 1.2.4 & Mineral Management Element Policies: 17.9; 17.15; 17.24.

Use Permit: Mineral Management Policies: 17.7; 17.15; 17.24.

Reclamation Plan: Mineral Management Element Policy: 17.81

VARIANCE (VAR19-0003):

Pursuant to Nevada County Land Use a Development Code, Section L-II 2.5, a Variance to the Building Height Limits has been requested to allow for the construction of Headframes at 80 and 165 feet in height, two hoist buildings at 50 feet, and a processing plant at 64 feet, where 45 feet is the maximum allowed height , pursuant to the Light Industrial Zoning District (Nevada County LUDC, Section L-II 2.5 – Industrial Uses, Table L-II 2.5.E). As outlined in Nevada County Land Use and Development Code, Section L-II 5.7 a Variance is a departure from any provision of the Code for a specific parcel, except use, without changing the zoning of the parcel. A Variance may only be granted upon demonstration of a hardship based on the peculiarity of the property in relation to other properties in the same zoning district. A Variance is required does not change the

zoning designation of parcel and a finding of consistency with the General Plan is required to approve a Variance.

The building height limit for the M-1 zone is 45 feet and as proposed, building heights at the Brunswick Industrial Site would range in height from 15 up to 165 feet as shown above on Table 4, which provides the description, size and height of the proposed buildings and structures. In total, approximately 126,000 square feet of industrial buildings would be constructed on the site. Building use for the calculation of required number of parking spaces pursuant to the Nevada County LUDC, Section L-II 4.2.9, can generally be classified as Office (10,100 square feet), General Industrial (50,700 square feet), Manufacturing (51,000 square feet), and Warehouse (14,500 square feet). Approximately 9,800 square feet of additional structures would be constructed on the Brunswick Industrial Site, including tanks located outside the process and water treatment plants, fuel tanks, a covered conveyor, and a breezeway.

The proposed project includes building heights of up to 165 feet, and thus does not comply with the M1 building height standards. Therefore, the applicant has requested a Variance. 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 is 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.

As discussed throughout this Staff Report, the project as proposed would require the approval of several entitlements including a Rezone to remove the existing SP Combining District and to add the ME Combining District, along with the approval of a Use Permit with a Reclamation Plan to allow for the approval of the proposed project. 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 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, there are many types of industrial development. The purpose of 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 adequate setbacks from adjacent land uses, the intensity of the mining operations exceed those that are compatible with the rural character of the surrounding semi-rural area.

Subsequently in the preparation of the proposed specific 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. Landscape trees would be planted to mitigate impacts at strategic locations to partially screen the 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 (Condition of Approval A.18 (MM 4.1-2)).

Landscape plans have been prepared for the Brunswick Industrial Site by a licensed landscape architect. In general, screening trees are proposed in breaks in existing tree canopy along Brunswick Road and south of the intersection of East Bennett Road and Brunswick Road. In general, the proposed trees are anticipated to reach full maturity in approximately 30 years (Draft EIR, pg. 4.1-16). The plant schedule identifies a range of tree species (15-gallon) to be planted in varying quantities. In addition to plantings along Brunswick Road and its intersection with East Bennett Road, landscaping is proposed along the southernmost buildings, and within the southerly parking lot, of the Brunswick Industrial Site. Parking lot landscaping would meet County spacing and coverage standards.

The County's Variance application outlines these findings and allows the applicant to provide justification for their requested deviation from the County's code requirements. As provided in Attachment 11, the applicant's Variance Justification is citing that the project site is limited by development standards, mineral resources being located on the project site, the use of the project as a modern gold mine, and limitations placed on other similarly zoned M1-ME Zoned Parcels. Further, the applicant is requesting the variance as a result of the fact that the County's Development Standards do not align with other similarly zoned parcels along with the historic use of the subject project site which previously contained a 135-foot-tall headframe building, which stood atop of the existing 85-foot concrete silo located at the Brunswick Industrial Site. In addition, the applicant has indicated that the County has approved the construction of other structures that are taller than the maximum height allowed by the underlying zoning district, where an otherwise use requires accommodation, including Communication Towers and Facilities along with a Variance to the height limits for a 38-foot 10 3/8-inch Senior Housing Facility (Lone Oak Apartments), which is located in unincorporated Western Nevada County in Penn Valley.

According to Land Use and Development Code Section L-II 5.7, the purpose of a Variance is to provide a procedure to allow variation from the strict application of provisions of the Zoning Ordinance where special circumstances pertaining to the physical character of the site are such that the literal enforcement of the requirements deprives the property privileges enjoyed by other property in the vicinity and under identical zoning classifications. To approve a variance, specific findings are required as set forth in Government Code Section 65906. These findings are as follows:

1. The variance, if granted, does not constitute the granting of a special privilege inconsistent with the limitations placed on other properties in the vicinity and in the same zoning district in which the subject property is located; and,
2. There are special circumstances applicable to the subject property including size, shape, topography, location or surroundings and because of these circumstances, the strict application

of the provisions of this Chapter would deprive the subject property of privileges enjoyed by other properties in the vicinity and in the same zoning classification; and,

3. The variance does not authorize a use not otherwise authorized by the zoning district in which the property is located, and,
4. The granting of the variance does not, under circumstances and conditions applied in the particular case, adversely affect the public health, safety, or welfare, the integrity and character of the District, nor the utility and value of nearby property; and,
5. The variance is consistent with the Nevada County General Plan; and,
6. The variance is the minimum departure from the requirements of this ordinance necessary to grant relief to the applicant.

In reviewing the submitted Variance Justification findings submitted by the applicant, it could be argued that that Variance proposed to allow for the construction of buildings over the required 45-foot height limit as allowed by the Light Industrial Zoning District is based on the proposed use of the project site as a gold mine and is not based on the limitations of the physical characteristics of the subject Brunswick Industrial Site parcels. As outlined in Nevada County Land Use and Development Code, Section L-II 5.7 a Variance is a departure from any provision of the Code for a specific parcel, except use, without changing the zoning of the parcel. A Variance may only be granted upon demonstration of a hardship based on the peculiarity of the property in relation to other properties in the same zoning district.

While the applicant does include that the mineral resources of the project site are unique and are of quality, quantity, accessibility and close proximity for processing facilities allowing for a feasible mining operation and that surrounding properties with the same Zoning District would need to use the same general height of a headframe and other facilities that are taller than the 45-foot height limit to operate a modern gold mine. It does not appear that the applicant has demonstrated that there are special circumstances applicable to the subject property including size, shape, topography, location or surroundings and because of these circumstances, the strict application of the provisions 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.

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 the applicant has demonstrated thought substantial evidence that alternative designs, which would meet the 45-foot height limitations of the Light-Industrial Zoning District have been evaluated.

Thus, based on the above discussion and on the applicant's submitted variance justification the required findings to approve the proposed height exception to the 45-foot height limitations of the

Light-Industrial Zoning District as required by Nevada County Land Use and Development Code, Section L-II 5.7 cannot be made.

In addition, while the County has approved structures which are taller than the Base Zoning District in which they are located such as a Communication Tower; pursuant to Nevada County Land Use and Development Code Section L-II 3.8.F.2, Communication Towers are not subject to the maximum building height established within each zoning district. Furthermore, no tower shall exceed 150 feet in a residential district.

SUMMARY:

As proposed, the Idaho-Maryland Mine – Rise Grass Valley project represents a large and unique project for Nevada County. The Idaho-Maryland Mine encompasses an extensive system of approximately 73 miles of underground tunnels, many raises, four inclined shafts, and two vertical shafts. The historic mining operation had extensive surface infrastructure adjacent to the Centennial Industrial Site and at the Brunswick Industrial Site, most of which has been dismantled and removed. The applicant, Rise Grass Valley, Inc., has proposed a 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 / mining proposed to operate 24 hours a day, 7 days a week during full operations. Following completion of mining and processing activities, the project sites would be reclaimed to open space and industrial uses. The proposed project's surface components would be located within unincorporated western Nevada County on approximately 175.64 acres, consisting of the Brunswick Industrial Site, the Centennial Industrial Site, and an approximately 0.30-acre portion of East Bennett Road for off-site improvements associated with a potable water pipeline easement. The proposed project would also involve underground mining within a defined portion of an approximately 2,585-acre mineral rights boundary owned by the project applicant, however as analyzed in the Draft EIR underground mining would not occur within the entire area of mineral rights and would be limited to an approximately 1,415-acre portion of the underground mineral rights boundary as shown in Attachment 1.

The requested project approvals from the County of Nevada include: Certification of the EIR subject to the adoption of the recommended Mitigation Measures found in the Mitigation Monitoring and Reporting Program (EIR19-0001), Rezone (RZN19-0002), Use Permit with a Reclamation Plan and Financial Assurance Cost Estimate (CUP19-0004), Variance (VAR19-0003), Management Plans (MGT19-0039; MGT19-0040; MGT20-0009; MGT20-0010; MGT20-0011; MGT20-0012; MGT20-0013), Parcel Map Amendment (AAM21-0002), Boundary Line Adjustment (LLA20-0006) and a Development Agreement (MIS22-0019). The proposed project would also require a number of permits and approvals from the City of Grass Valley, and local, state, and federal agencies and organizations.

This project has been reviewed for potential environmental impacts through an EIR. Based on this review, it has been determined that all project potential impacts are mitigated to less than significant levels with the exception of: 1.) Aesthetics (damage scenic resources and result in long-term changes in visual character); 2.) Noise and Vibration (temporary substantial increase in ambient noise levels); and 3.) Transportation (conflict with a program, plan, ordinance, or policy).

These potentially significant and unavoidable impacts are disclosed in the EIR (Attachment 23) and as shown in Table 6, above in this staff report. Should the Planning Commission elect to recommend that Board of Supervisors approve the proposed project, the Planning Commission must make the CEQA Findings of Fact and a Statement of Overriding Considerations for the Idaho-Maryland Mine – Rise Grass Valley Project provided in *Attachment 3*.

Furthermore, the proposed above ground uses on the Brunswick Industrial Site would be located on areas of the site where prior lumber mill and mining processing occurred. As proposed, all activities would be within enclosed areas to minimize noise and dust for surrounding uses. The buildings would total approximately 126,000 square feet, but would be separated into smaller buildings, the largest of which would be the process plant at approximately 29,200 square feet. Smaller buildings located throughout the site, create a more rural character than larger buildings. The headframe for the shaft, however, extends to approximately 165 feet in height. The headframe for the service shaft is approximately 80 feet high, and the process plant is 64 feet in height. A Variance has been requested to exceed the 45-foot height limit of the Light-Industrial Zoning District. 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 headframe and processing building. Furthermore, it does not appear that the applicant has demonstrated that there are special circumstances applicable to the subject property including size, shape, topography, location or surroundings and because of these circumstances, the strict application of the provisions 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. In addition, 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 and therefore, the proposed building heights would be considered inconsistent with the rural character and quality of life of the surrounding area semi-rural area.

As discussed throughout the staff report, the project as proposed would require the approval of several entitlements including a Rezone to remove the existing Site Performance (SP) Combining District and to add the Mineral Extraction (ME) Combining District, along with the approval of a Use Permit with a Reclamation Plan to allow for the approval of the proposed project. In addition, the project would require the approval of a Variance to allow the construction of several buildings over the 45-foot height limit as outlined in the Light-Industrial Zoning District, the approval of several Management Plans including as follows: 1.) Allow for activities within the required 100-foot setback from the Riparian Area of a Perennial Watercourse (i.e., Wolf Creek and South Fork Wolf Creek), pursuant to Nevada County LUDC, Section L-II 4.3.17, at the Brunswick and Centennial Industrial Sites); 2.) Minimize the direct impact to special-status plant species, pursuant to Nevada County LUDC, Section L-II 4.3.12, at the Centennial Industrial Site; 3.) Allow development within locations of areas of Steep Slopes that are in excess of 30 percent and high erosion potential at both the Brunswick and Centennial Industrial Sites, pursuant to the Nevada County LUDC, Section L-II 4.3.13; 4.) Allow for development within a building setback

associated with a fault zone at the Brunswick Industrial Site, pursuant to the Nevada County LUDC, Section L-II 4.3.8; and 5.) Allow limited grading within the required 100-foot buffer from the Wolf Creek 100-year floodplain boundary, subject to mitigations and conditions that must be complied with to ensure that the operations at the Centennial Industrial Site would not result in adverse effects to the 100-year floodplain associated with Wolf Creek. In addition, the proposed project would require the approval of an Amendment to the Final Map for Bet Acres to remove a 200-foot Building Setback from a Fault Zone along approval of a Boundary Line Adjustment to transfer approximately 46.27 acres for three separate parcels to reconfigure property lines to resolve an issue of proposed building crossing property lines. Lastly, the proposed project would require the approval of a Development Agreement which would establish a framework for how the Use Permit with a Reclamation Plan would apply to the mining and reclamation phasing of the project and costs and timing for the payment of a cents per ton fee, pursuant to CUP19-004 and the scope of those activities.

CONCLUSION AND RECOMMENDATION A & B:

As outlined and analyzed above in the Staff Report, the project as proposed, can be found to be consistent with several of the Nevada County General Plan Goals and Policies. Furthermore, as outlined and analyzed above in the Staff Report, the project as proposed, can also be found to be inconsistent with several of the Nevada County General Plan Goals and Policies. Therefore, for the consideration of the Planning Commission, the below discussion outlines two recommendations as options for consideration by the Planning Commission, as a recommendation to the Board of Supervisors.

Discussion of Recommendation A:

Specifically, the project as proposed, can be found to be consistent with several of the General Plan Goals and Policies including:

Rezone: Land Use Element Policies: 1.1.3; 1.2.4 & Mineral Management Element Policies: 17.9; 17.15; 17.24.

Use Permit: Mineral Management Policies: 17.7; 17.15; 17.24.

Reclamation Plan: Mineral Management Element Policy: 17.81

In addition, as presented in the Staff Report, the project as proposed can be determined to be consistent with an industrial use because mining would produce gold concentrates. With the approval of a Use Permit with a Reclamation Plan, subsurface mining is allowed in all Industrial Zoning Districts (LUDC Section 3.21), surface access to subsurface mining is allowed in the M1 Zoning District (LUDC Section L-II 3.21), and surface mining is allowed in the M1 Zoning District (Section L-II 3.22). The Brunswick Industrial Site includes buffer zones of 50 feet to the south and 150 feet to the west, that include areas of mature forest to provide buffering from adjacent land uses. Furthermore, the subject parcels within the both the Brunswick and Centennial Industrial Sites have a General Plan Land Use Designation of Industrial and a General Plan Land Use Map Amendment is not required.

As proposed, because the Brunswick Industrial Site parcels are located on land designated MRZ-2b as shown on Figure 3-2 of Volume 3 - General Plan Master Environmental Inventory of the Nevada County General Plan, the project as proposed includes a Rezone to add the Mineral Extraction (ME) Combining District as required by Nevada County Land Use and Development Code, Section L-II 2.7.3. Furthermore, as historic gold mining of the project site and recent exploratory drilling clearly demonstrates that significant mineral deposits are accessed from the Brunswick Industrial Site. Therefore, both standards as required by LUDC Section 2.7.3 – Mineral Extraction Combining District can be met and with the approval of the Rezone. Thus, the proposed project would be consistent with the permitted uses for the M1-ME Zoning Designation and allowed with the approval of a Conditional Use Permit.

Further, as reviewed and analyzed, the project as proposed can be found to be inconsistent with several of the General Plan Goals and Policies, specifically including:

Rezone: Land Use Element Policies 1.1.1; 1.1.2 & Mineral Management Element Policy: 17.6.

Use Permit: Land Use Element Policies 1.1.1; 1.1.2; 1.4.2 & Mineral Management Element Policy: 17.6.

Reclamation Plan: Land Use Element Policies 1.1.1; 1.1.2; 1.4.2 & Mineral Management Element Policy: 17.6

While the project site is designated as Industrial (IND) on the General Plan Land Use Map and zoned Light-Industrial, there are many types of industrial development. The purpose of 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 adequate setbacks from adjacent land uses, the intensity of the mining operations exceed those that are compatible with the rural character of the surrounding semi-rural area. In addition, while the proposed project has been analyzed in the EIR and accompanying technical studies, the policy question remains whether this level of mining and processing activity is appropriate in its proposed locations, given that the mining operations would occur 24 hours a day, seven days a week and 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, which would be considered inconsistent with the rural character and quality of life of the surrounding neighborhoods within the County.

Pursuant to Nevada County Land Use and Development Code, Section L-II 2.5 – Industrial Districts, the height limitation for the Light-Industrial Zoning District is 45 feet and as proposed, building heights at the Brunswick Industrial Site would range in height from 15 up to 165 feet as shown above on Table 4. Therefore, the applicant has requested a Variance. 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 is 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.

While the applicant does include that the mineral resources of the project site are unique and are of quality, quantity, accessibility and close proximity for processing facilities allowing for a feasible mining operation and that surrounding properties with the same Zoning District would need to use the same general height of a headframe and other facilities that are taller than the 45-foot height limit to operate a modern gold mine. It does not appear that the applicant has demonstrated that there are special circumstances applicable to the subject property including size, shape, topography, location or surroundings and because of these circumstances, the strict application of the provisions 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. 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, the applicant does not included an evaluation of alternative designs which would meet the 45-foot height limitations of the Light-Industrial Zoning District. Therefore, given the above discussion and based on the analysis of the proposed project, staff believes that the required findings pursuant to Nevada County Land Use and Development Code, Section L-II 5.7.E – Variances, cannot be made.

Thus, given the above discussion, staff believes that the proposed project has been found to be inconsistent with several of the General Plan Goals and Policies as outlined above, including Central Theme 1 of the Nevada County General Plan and based on that project as proposed is not consistent with the Goals and Policies of the Nevada County General Plan that encourage development to be compatible with the existing rural character of the neighborhoods or communities where the development is being proposed, while maintain the rural quality of life. Therefore, based on the proposed project's overall inconsistency with the Nevada County General Plan and Zoning Ordinance, Planning Department staff recommend that the Planning Commission after opening the public hearing and taking public testimony, take the project actions described below in Recommendation A, which are recommendations to the Board of Supervisors.

Discussion of Recommendation B:

Also, for consideration by the Planning Commission and as outlined above in the Staff Report, should the Planning Commission determine based on findings, that the proposed project is consistent with the Nevada County General Plan and Zoning Ordinance, Planning Department staff recommends that the Planning Commission after opening the public hearing and taking public testimony, take the project actions described below in Recommendation B, which are recommendations to the Board of Supervisors. In addition, Planning Department staff would like

to include, that should the Planning Commission elect to recommend that Board of Supervisors approve the proposed project, as outlined in Recommendation B, the Planning Commission must make the CEQA Findings of Fact and a Statement of Overriding Considerations for the Idaho-Maryland Mine – Rise Grass Valley Project as provided in *Attachment 3* in addition to adopting the Applicant’s provided Variance findings which as provided in *Attachment 11* and summarized for the benefit of the Planning Commission in Recommendation B.

Additionally, for the consideration of the Planning Commission, Planning Department staff would like to include, that should the Planning Commission desire, the Commission, may elect to consider addition options in its decision, including continuance of the public meeting to a date and time certain or a date and time uncertain to ask for additional information to be brought before the Commission for additional consideration. In addition, should the Planning Commission desire, the Commission may consider and make a motion of intent to move one or more of the Project Alternatives as they have been analyzed in the project specific Environmental Impact Report and which are outlined in the Staff Report.

RECOMMENDATION A: The Planning Commission recommends that the Board of Supervisors take the following actions:

- I. Environmental Action: Recommend the Board of Supervisors certify the Final Environmental Impact Report (EIR 19-0001, SCH# 2020070378) as adequate for the Idaho-Maryland Mine Project, and that it has been completed in compliance with the California Environmental Quality Act, subject to the recommended Mitigation Measures found in the Mitigation Monitoring and Reporting Program (*Attachment 1*) and as have been modified by Erratum to the Idaho-Maryland Mine Project Final Environmental Impact Report, dated April 2023 (*Attachment 3*), and not adopting the California Environmental Quality Act Findings of Fact (*Attachment 2*), and not adopting a Statement of Overriding Considerations (*Attachment 2*).
- II. Project Action: Recommend that the Board of Supervisors deny the Rezone (RZN19-0002) to rezone 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), as outlined in Nevada County Land Use and Development Code, Section L-II 2.7.3 – Mineral Extraction Combining District, to allow for surface mining facilities related to the underground mining operation and to provide for public awareness of the potential for surface mining to occur where adequate information indicates that significant mineral deposits are likely present, pursuant to Nevada County Land Use and Development Code, Section L-II 5.9, making findings A and B:
 - A. The proposed amendment is not consistent with and does not further the goals, objectives, policies, and implementation measures of the General Plan and the provisions of the Nevada County Land Use and Development Code,
 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 consist with General Plan Policy 1.1.1.

2. General Plan Policy: 1.1.2: *Inconsistency with Rural Regions*

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 uses. 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 stands 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 consisted with General Plan Policy 1.1.2.

3. 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.

4. General Plan Policy: 17.6: The project as proposed would be a gold mining operation on a site previously used for gold mining, and on sites 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.
- B. The proposed amendment will not 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; however, given the height of proposed structures, they will still be visible from public viewpoints. The proposed amendment will be detrimental to the public interest, health, safety, convenience, or welfare of the County,

- III. Project Action: Recommend that the Board of Supervisors deny the Variance (VAR19-0003), to allow for the construction of several structures up to a height of 165 feet, where 45 feet is required, pursuant to the Light Industrial Zoning District (Nevada County LUDC, Section L-II 2.5 – Industrial Uses, Table L-II 2.5.E), and making findings A through D pursuant to Section L-II 5.7.E of the Nevada County Land Use and Development Code:

- 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.
- B. There is not sufficient evidence of special circumstances applicable to the subject property including size, shape, topography, location or surroundings and because of these circumstances, 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 applicant 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. The granting of the variance does under circumstances and conditions applied in the particular case, adversely affect the public health, safety, or welfare, the integrity and character of the District, nor 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 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, there are many types of industrial development. The purpose of 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 adequate setbacks from adjacent land uses, the intensity of the mining operations exceed those that are compatible with the rural character of the surrounding semi-rural area.

Subsequently in the preparation of the proposed specific 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. Landscape trees would be planted to mitigate impacts at strategic locations to partially screen the Project elements, including the proposed Warehouse Building, Process Plant, Employee Off-Street Parking and the Brunswick Shaft Complex area 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.

- 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, there are many types of industrial development. The purpose of 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 adequate setbacks from adjacent land uses, the intensity of the mining operations exceed those that are compatible with the rural character of the surrounding semi-rural area.

IV. Project Action: Recommend the Board of Supervisors take no action on the following project entitlements: Approving a Development Agreement (MIS22-0019), approving a Use Permit and Reclamation Plan (CUP19-0004) for uses and facilities over the 80-year permit life consistent with the project as described in the Environmental Impact Report, approving the

Management Plans (MGT19-0039, MGT19-0040, MGT20-0009, MGT20-0010, MGT20-0011), approving the Boundary Line Adjustment (LLA20-0006), approving the Parcel Map Amendment (AAM21-0002).

RECOMMENDATION B: The Planning Commission recommends that the Board of Supervisors take the following actions:

- I. Environmental Action: Recommend the Board of Supervisors certify the Final Environmental Impact Report (EIR 19-0001, SCH# 2020070378) as adequate for the Idaho-Maryland Mine Project, and that it has been completed in compliance with the California Environmental Quality Act, subject to the recommended Mitigation Measures found in the Mitigation Monitoring and Reporting Program (*Attachment 1*) and as have been modified by Erratum to the Idaho-Maryland Mine Project Final Environmental Impact Report, dated April 2023 (*Attachment 3*), making the California Environmental Quality Act Findings of Fact (*Attachment 2*) and making a Statement of Overriding Considerations (*Attachment 2*).
- II. Project Action: Recommend that the Board of Supervisors approve the Rezone (RZN19-0002) to rezone 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) to allow for surface mining facilities related to the underground mining operation, pursuant to Nevada County Land Use and Development Code, Section L-II 5.9, based on findings A and B:
 - A. The proposed amendment is consistent with and furthers the goals, objectives, policies, and implementation measures of the General Plan and the provisions of this Code,
 1. General Plan Policy 1.1.3: Most of the proposed project is located on the Brunswick Industrial Site, which is partially located within the City of Grass Valley's Long-Term Sphere of Influence. The southern portion of the Brunswick Industrial Site is outside of the City's Sphere of Influence. The Centennial Industrial Site is located within the City's Near-Term Sphere of Influence. While many of the subject project sites are located in the City's Sphere of Influence and assigned General Plan land use designations by the City of Grass Valley, the sites are located within the unincorporated Western Nevada County and are not proposed to be annexed to the City. All the buildings proposed for the Brunswick Industrial Site would be located within Grass Valley Community Region, whereas no buildings are proposed for the section of the project site existing in the Rural Region. The gated entrance proposed along Brunswick Road, a portion of the employee parking lot, and engineered fill pad would be located within the Rural Region. However, as shown on the submitted site plans there would be a sufficient buffer zone for existing residences which are located adjacent to the project sites and all driveway ways would be located within the project site and truck haul routes would not go through residential neighborhoods.
 2. General Plan Policy 1.2.4: The project as proposed would be consistent with an industrial use because mining would produce gold concentrates. Subsurface mining is allowed in all Base Zoning Districts, surface access to subsurface mining is allowed in

- the M1 Base District (LUDC Section L-II 3.21), and surface mining is allowed in the M1 Zoning District (LUDC Section L-II 3.22). The Brunswick Industrial Site maintains fifty (50) feet to the south and one hundred fifty (150) feet to the west; an area of existing mature forest to provide buffering from adjacent land uses.
3. General Plan Policy 17.9: The Project would mine previously mined land that is known to contain economically mineable minerals. Reclamation of the site would result in land for alternative industrial uses consistent with its County Industrial land use designation. No future industrial use could occur on-site without separate environmental review and approval of additional discretionary entitlements by the County. The proposed project contains economically mineable minerals and is subject to separate environmental review and approval of a Use Permit with a Reclamation Plan and is therefore consistent with Policy 17.9 of the Mineral Management Element.
 4. General Plan Policy 17.15: The Project includes a rezone of the Brunswick Site from M1-SP to M1-ME and is subject to environmental review consistent with the CEQA. The Project would comply with all applicable federal, state, and local regulations in addition to implementation of mitigation measures required by the DEIR and associated mitigation measures, as well as conditions of approval. The Draft EIR identifies the project effects on water quantity and quality in Chapter 4.8, Hydrology and Water Quality; noise and vibration impacts are addressed in Chapter 4.10, Noise and Vibration; and traffic effects are addressed in Chapter 4.12, Transportation.
 5. General Plan Policy: 17.24 The Draft EIR addresses any potential impacts including the operation on surface land uses, water quantity and quality, noise and vibration, land subsidence, and traffic associated with subsurface access to allow for underground mining and gold mineralization processing for the Idaho-Maryland Mine. All other related impacts have been addressed in the DEIR and as further outlined above under within GP Mineral Management Element Policy Discussion Policy 17.15. Therefore, the Project is consistent with Policy 17.24.
- B. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the County. The parcels at the Brunswick Industrial Site are located on land designated MRZ-2b, and historic gold mining of the project site and recent exploratory drilling clearly demonstrates that significant mineral deposits are accessed from the Brunswick Industrial Site. Therefore, both standards can be met and with the approval of the Rezone, the proposed project would be consistent with the permitted uses for the M1-ME Zoning Designation and allowed with the approval of a Conditional Use Permit.
- III. Project Action: Recommend that the Board of Supervisors approve Use Permit (CUP19-0004) for uses and facilities over the 80-year permit life consistent with the project as described in the EIR, subject to the recommended Conditions of Approval and Mitigation Measures found in the Mitigation Monitoring and Reporting Program (*Attachment 1*) and as have been modified by Erratum to the Idaho-Maryland Mine Project Final

Environmental Impact Report, dated April 2023 (*Attachment 3*), making Findings A through L, pursuant to Nevada County LUDC Section L-II 5.6.G and 5.5.2.C and recommend that the Board of Supervisors approve the Reclamation Plan (CUP19-0004) and Financial Assurance (*Attachment 19 & 21*), in accordance with the requirements of the California Surface Mining and Reclamation Plan (SMARA) found in Public Resource Code (PRC) Section 2710 et seq., Title 14 of the California Code of Regulations (CCR) Section 3700 et seq., and Nevada County LUDC, Section L-II 3.22 to reclaim project-related surface disturbance to a condition suitable for industrial uses and to guide site development, operations and monitoring which have been incorporated in the project specific EIR and Use Permit, subject to the recommended Conditions of Approval and Mitigation Measures found in the Mitigation Monitoring and Reporting Program (*Attachment 1*) and as have been modified by Erratum to the Idaho-Maryland Mine Project Final Environmental Impact Report, dated April 2023 (*Attachment 3*), making Findings 1A and 2A though J, pursuant to Nevada County LUDC Sections L-II 3.22.J.1 and L-II 3.22.J.2.a though J.2.h.

Use Permit – Findings A-L (LUDC Section L-II 5.5.2.C)

- A. The proposed use is consistent with the General Plan and its goals, objectives, and policies, with the General Plan Land Use Maps and with any Area or Specific Plan or development agreements in effect within the project area;
1. General Plan Policy 17.7: The proposed project would 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. Following completion of mining and processing activities, the subject project sites would be reclaimed to open space and land suitable for proposed future development of industrial uses, subject to additional environmental review and permitting. The Reclamation Plan includes a Financial Assurance Cost Estimate to reclaim the project-related surface disturbance to a condition suitable for industrial uses and open space as allowed by Nevada County Land Use and Development Code, Section L-II 2.5 – Industrial Uses.

As proposed the applicant would enter into a Development Agreement (DA) with the County that establishes a framework for: (1) how the Use Permit and Reclamation Plan (CUP19-004) would apply to the mining and reclamation phasing of the project; and (2) costs and timing for the payment of a cents per ton fee, pursuant to CUP19-004 and the scope of those activities. The DA provides for a twenty (20) year timeframe, with two extensions of ten (10) years permitted. Additionally, pursuant to the DA and Nevada County Land Use and Development Code Section L-II 5.18.F., the Planning Commission will review the DA every twelve (12) months after the date the agreement is entered into. Among other items, the Planning Commission will determine, on the basis of substantial evidence, whether the applicant has complied in good faith with the terms and conditions of

the DA during the period under review. Therefore, as proposed, the project would be in compliance with Policy 17.7 of the General Plan.

2. General Plan Policy 17.24: The Draft EIR addresses any potential impacts including the operation on surface land uses, water quantity and quality, noise and vibration, land subsidence, and traffic associated with subsurface access to allow for underground mining and gold mineralization processing for the Idaho-Maryland Mine. All other related impacts have also been addressed in the Draft EIR and as further outlined above under the above Policy 17.15 Mineral Management discussion. Thus, given the existence of nearby residential development, the engineering fill pad alone is probably not enough to render the demarcation line between the Community and Rural Regions broken. Regarding parking, there are automobiles parked at nearby residential uses. It is thus improbable that these parked automobiles can represent a rural way of life while the existence of additional parked cars at the proposed project site would antagonize that rural way of life. The only feasible argument that the project appears to not 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 General Plan Land Use 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. Therefore, the project would be consistent with Policy 17.24 as outlined above.
- B. The proposed use is allowed within and is consistent with the purpose of the zoning district within which it is located. The proposed project would allow for subsurface mining activities which are an allowed use in all base zoning districts, subject to the approval of a Use Permit as required by Nevada County LUDC, Section L-II 3.21 – Subsurface Mining. In addition, pursuant to Section L-II 3.21, surface access to subsurface mining activities, including vent and escape shafts, are allowed in the AG, FR, M1, M2, P and PD base zoning districts, subject to the approval of a Use Permit. LUDC Section L-II 3.22 (B.19) – Surface Mining includes processing as a surface mining operation and LUDC Section L-II 3.22 (D.3) allows surface mining, which includes processing plant operations, in the M1 Zoning District, and where the subject parcel is zoned with the ME Combining District, subject to the approval of a Use Permit and Reclamation Plan. The proposed project includes a subsurface estate of approximately 2,585 subsurface acres, to which the applicant retains the mineral rights, and which is comprised of many different types of base zoning districts. Thus, as proposed, both the subsurface mining activities and the surface access to subsurface mining activities uses are allowed within the M1 Zoning District, subject to the approval of a Use Permit and Reclamation Plan and would require the approval of a Rezone to add the ME Combining District

- C. The proposed use and any facilities meet all applicable provisions of this Code, including, without limitation, design and siting to meet the intent of the Site Development Standards mitigating the impact of development on environmentally sensitive resources. As proposed, the project has been designed to meet all of the setback requirements of the M1 Zoning District and would be compatible with the ME Combining District with the approval of a Rezone.
- D. The design of any facilities for the proposed use are consistent with the intent of the design goals, standards, and elements of this Chapter and will be compatible with the design of existing and anticipated future on-site uses and the uses of the nearby surrounding area. Upon completion of aboveground gold processing and off-site sale of engineered fill, the Brunswick Industrial Site would be reclaimed to open space and industrial uses. A majority of the aboveground facilities and structures would remain to support future post-mining industrial uses on the site should they be separately permitted through the County. All paved surfaces, including access roads, parking areas, and driveways, would remain to facilitate access to the site and buildings. The Brunswick and Centennial Industrial Sites fill slopes would be revegetated with an erosion-control seed mix to reduce erosion and maintain fill slope stability. The fill pads would be maintained until they are used or sold for future industrial purposes.
- E. The site for the proposed use is adequate in size and shape and location to accommodate the proposed use and all facilities needed for that use and reasonable expansion thereof, if any, and to make appropriate transitions to nearby properties and permitted uses thereon, without compromising site development standards. The proposed project's surface components would be located on approximately 175.64 acres consisting of the Brunswick Industrial Site, the Centennial Industrial Site, and a 0.30-acre portion of East Bennett Road for off-site improvements associated with a potable water pipeline easement. The project would also involve underground mining within a defined approximately 1,415-acre portion of the approximately 2,585-acre mineral rights boundary owned by the applicant, as shown on Attachment 1. As shown, the subject project sites would meet the minimum parcel size as allowed by the M1 Zoning District, pursuant to Nevada County Land Use and Development Code, Section L-II 2.5 – Industrial Districts.
- F. The proposed use and facilities are compatible with, and not detrimental to existing and anticipated future uses on-site, on abutting property and in the nearby surrounding neighborhood or area. The project as proposed would be consistent with an industrial use because mining would produce gold concentrates. Subsurface mining is allowed in all Industrial Zoning Districts, surface access to subsurface mining is allowed in the M1 Zoning District (LUDC Section L-II 3.21), and surface mining is allowed in the M1 Zoning District (Section L-II 3.22). The Brunswick Industrial Site includes buffer zones of 50 feet to the south and 150 feet to the west, that include areas of mature forest to provide buffering from adjacent land uses. Furthermore, the subject parcels within the both the Brunswick and Centennial Industrial Sites have a General Plan Land Use Designation of Industrial and a General Plan Land Use Map Amendment is not required.

- G. Adequate provisions have been made for water and sanitation for the proposed use, and if available, for transition to public water and/sewer. The EIR determined that the proposed project would result in a less-than-significant impact related to conflicting with or obstructing implementation of a water quality control plan or sustainable groundwater management plan. In addition, cumulative impacts were determined to be less than significant. The EIR determined that implementation of the proposed project could result in potential construction and operational impacts related to water quality (e.g., Centennial Industrial Site: engineered fill pad construction; Brunswick Industrial Site: operations within industrial area, underground placement of Cement Paste Backfill, use of clay-lined pond for water treatment process purposes, engineered fill pad construction, treated water discharge in South Fork Wolf Creek). In addition, the proposed project would result in substantial reduction in groundwater supplies; substantial alteration of drainage patterns; and for the Centennial Industrial Site, risk release of pollutants in flood hazard area. However, the EIR requires mitigation in order to ensure that impacts related to hydrology and water quality are reduced to less-than-significant levels.

Mitigation Measure 4.8-1(a-e) requires the project applicant to submit a Notice of Intent to the Central Valley Regional Water Quality Control Board (RWQCB) for coverage under the Limited Threat Discharge permit and Construction General Permit for both sites, and prepare a Construction Stormwater Pollution Prevention Plan (C-SWPPP), along with requiring the applicant acquire other necessary entitlements.

Mitigation Measure 4.8-2(a-c) requires the implementation of the Groundwater Monitoring Plan and the Well Mitigation Plan as approved by Nevada County. This measure also establishes the applicant's responsibility to provide a comparable water supply to homes or business, should it be found that the mining operations are resulting in a significant impact to any wells.

- H. Roads providing access to the site are adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use and adequate provision has been made for project specific impacts and the cumulative effect traffic generated by the proposed use so that it will not create or add to an identified problem before construction of needed improvements for which a development fee has been established and imposed up the project.
- I. With the approval of the Development Agreement (MIS22-0019), adequate provisions have been made for emergency access to the site. Furthermore, the EIR determined that the proposed project would result in a less-than-significant impact related to substantially impairing an adopted emergency response plan or emergency evacuation plan, installation or maintenance of wildfire-associated infrastructure which could exacerbate wildfire hazard, and exposing people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes. In addition, cumulative impacts were determined to be less than significant. The EIR determined that implementation of the proposed project would result

in a significant impact related to exacerbating wildfire hazards. The EIR requires mitigation in order to ensure that the aforementioned impact is reduced to a less-than-significant level.

Mitigation Measure 4.13-2 requires the submittal of a comprehensive Vegetation Management Plan for the review and approval by the County Fire Marshall's Office.

- J. Adequate public facilities and public services exist within the project area which will be available to serve the project without decreasing service levels to other areas to ensure that the proposed use is not detrimental to the public welfare, including public roads, public utilities, and fire service; and,
- K. All feasible mitigation measures, as provided in Attachment 1 have been imposed upon the project.
- L. The conditions provided in Attachment 1 are deemed necessary to protect the public health, safety, and general welfare.

Reclamation Plan – Findings 1A and 2A through H (LUDC Section L-II 3.22.J.1 and L-II 3.22.J.2.a through J.2.h)

1. Use Permit

- A. The project with the certification of the EIR, implementation of Conditions of Approval and the approval of the Reclamation Plan complies with the provisions of SMARA and State regulations.

2. Reclamation Plan

- A. That the Reclamation Plan and potential use of reclaimed land pursuant to the Plan are consistent with the General Plan and the provisions of Section L-II 3.22 J of the Nevada County Land Use and Development Code; and,
- B. The Reclamation Plan complies with SMARA Sections 2772 and 2773, applicable requirements of State regulations (CCR §3500-3505, and §3700-3713), and any other applicable provisions, as may be amended. The Project's Reclamation activities will be initiated at the earliest possible time on those portions of the mined lands that have been disturbed and that may be disturbed again in future operations; and,
- C. The Reclamation Plan has been reviewed pursuant to CEQA and the County's environmental review guidelines (LUDC Chapter 13), and all significant adverse impacts from reclamation of the surface mining operations are mitigated to the maximum extent feasible; and,
- D. That the conditions listed are the minimum necessary to protect the public's health, safety and general welfare and are essential to ensure that the Reclamation Plan will minimize water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from surface mining operations; and,

- E. That the ongoing monitoring and periodic review process will help ensure that the Reclamation Plan will restore mined land to a usable condition which is readily adaptable for alternative land use that is consistent with the surrounding land uses, primarily for open space and land suitable for future industrial uses, subject to additional environmental review and permitting as consistent with the Nevada County Land Use and Development Code and the Nevada County General Plan.; and,
 - F. That the Reclamation Plan will restore the mined lands to a condition that creates no danger to public health or safety as required by the Surface Mining and Reclamation Act, the Planning Department is required to perform an inspection of all reclamation activities, which are required to be funded by the applicant or operator and the results of that inspection are sent to the California Department of Conservation, Division of Mine Reclamation for annual review and acceptance; and,
 - G. That the conditions listed are the minimum necessary to protect the public’s health, safety and general welfare and are essential to ensure that the Reclamation Plan and as determined by the Final EIR, the land and/or resources such as water bodies to be reclaimed will be restored to a condition that is compatible with, and blends in with, the surrounding natural environment, topography, and other resources; and,
 - H. The Reclamation Plan as implemented by the applicant / operator and monitored by the Nevada County Planning Department and the State Department of Conservation, Division of Mine Reclamation in compliance with the Surface Mining and Reclamation Act will restore the mined lands to a usable condition that is readily adaptable for alternative land uses consistent with the General Plan; and,
 - I. That the requirement for the supplemental guarantee, which will be reviewed annually, is necessary to ensure a timely reclamation of the site, as well as to protect the County in the event of any unanticipated project abandonment; and,
 - J. That a written response to the State Department of Conservation (Division of Mine Reclamation) was prepared and submitted and that all recommendations by the Division of Mine Reclamation are now incorporated into the Reclamation Plan and there is no further comments from the Division of Mine Reclamation that have not been included in this approved Reclamation Plan.
- IV. Project Action: Recommend that the Board of Supervisors approve Variance (VAR19-0003) to allow for the construction of several structures up to a height of 165 feet, where 45 feet is required, pursuant to the Light Industrial Zoning District (Nevada County LUDC, Section L-II 2.5 – Industrial Uses, Table L-II 2.5.E), based on upon the following findings (which have been prepared by the applicant as part of the Variance request and are included in (*Attachment 11*), subject to the recommended Conditions of Approval and Mitigation Measures found in the Mitigation Monitoring and Reporting Program (*Attachment 1*) and as have been modified by Erratum to the Idaho-Maryland Mine Project Final Environmental Impact Report, dated April 2023 (*Attachment 3*), making findings A through F:

- A. The Variance does not constitute the granting of a special privilege inconsistent with the limitations placed on similarly sized properties along Brunswick Road and within the M1 Zoning District. The variance does not grant a special privilege inconsistent with the limitations placed on other properties in the vicinity in the same zoning district as the property, because those properties with the same zoning district would also need to seek a variance to construct facilities taller than 45 feet, as are necessary to conduct underground gold mining operations. Pursuant to LUDC Section L-II 5.7 (Variances), the term “District” refers to the Zoning District in which the property is located. In this case, the Brunswick site comprises the entire M1-SP zoning district and is surrounded by residential uses that are in different (residential) Zoning Districts. As further stated in the County zoning code, “Subsurface mining is allowed in all base districts subject to approval of a Use Permit ... [and] [s]urface access to subsurface mining, including vent and escape shafts, is allowed in the AG, FR, M1, M2, P, and PD base districts subject to approval of a Use Permit.” (Nevada County Code Sec. L-II 3.21 Subsurface Mining.) Subsurface access to underground mining operations is allowed in the same zoning as the property (M1), and would also require the same process (approval of a variance) to be granted for the headframe necessary for an underground mine on those other properties.

The taller structures are necessary to implement a modern gold mine. To be able to efficiently and safely execute the underground mining activities allowed on-site under the M1 zoning (with the ME designation), certain structures must be taller than 45 feet, which is the height limit under the current M1 zoning. Specifically, the main headframe is designed to be 165-feet tall, which is consistent with modern headframe designs for underground mines. Headframes smaller than 45 feet are not feasible and would not allow for a modern subsurface gold mine. Likewise, the headframe for the service shaft is proposed to be 80-ft tall, and two hoist buildings associated with the mine shafts would be 50-feet tall. The Process Plant building requires a height of 64 feet to accommodate and fully enclose machinery required for mineral processing. Thus, the variance is necessary to implement those activities that are allowed within the Light Industrial (M1) with Mineral Extraction Combining District (M1-ME). The grant of a height variance does not constitute a special privilege unavailable to others in the vicinity in the same zoning district, because other properties in the project’s district or in the vicinity that are zoned M1 would need this same general height of structures to extract and process gold ore.

- B. There are special circumstances applicable to the subject property including its size, shape, topography, location or surrounding and because of these circumstances, the strict application of the provisions of the height limitations of the M1 Zoning District would deprive the subject property of privileges enjoyed by other properties in the vicinity and in the same zoning classification.

The Brunswick Industrial Site is a unique property due to its location above an identified gold resource and the existing infrastructure (i.e. Brunswick Shaft) providing the only access to this resource. The property’s size, location, and access to local roadways provides the ancillary characteristics necessary to support a project of this size and importance. Given the unique suitability of the Project site for underground gold mining, strict application of the 45-foot

height limitation would deprive the property of privileges enjoyed by other properties in the vicinity, i.e., the privilege of utilizing the property as it historically been used for this same use, which is its best and highest use allowed under its current zoning. The Brunswick Industrial Site contains the historic Idaho-Maryland Gold Mine, which would uniquely provide jobs, add to the local economy and supply local taxes. From 1866 to 1956, this mine produced 2,414,000 ounces of gold, equivalent to 4.7 billion dollars in today's gold price. A shaft already exists on the Brunswick site, which can be reused, allowing faster and more economic development of the mine. The Brunswick site is 119 acres in size, which unlike most other properties in the project vicinity, is large enough to allow a modern headframe and associated mine processing facilities and structures without undue nuisance to neighboring properties. Finally, the Brunswick site includes an already-constructed processing pond and contains a portion of South Fork of Wolf Creek. Both the pond and the creek are integral to the mine project, as the pond is necessary for water treatment, and the creek is necessary for a point of clean, treated water exit from the property. With its unique characteristics, the Brunswick site is the only site that can reasonably serve as an access point and processing facility for extracting the mineral resources owned by the applicant. Given the special circumstances of the Brunswick site, including location of a valuable gold deposit, large property size conducive to underground mining, and pre-existing features useful for underground mining, strict application of the zoning code's height limitation would deprive the property owner of using the property for its best and highest use, which privilege is enjoyed by neighboring property owners.

Notably, the County previously allowed a 135-foot-tall headframe on the property. Since suspending operations in 1956, an 85-foot concrete silo remains as a legal, nonconforming structure at the Brunswick Industrial Site. The existence of an 85-foot concrete silo on the property, which is already 40 feet taller than the 45-foot height limitation, is an additional special circumstance applicable to the property.

- C. The variance does not authorize a use not otherwise authorized by the zoning district in which the property is located. Underground mining is allowed in the zoning district where the property is located; therefore, the variance would not allow a use that is not authorized within the subject zoning district (M1-ME). With the rezone, the historic and proposed use (gold mining and processing and the reclamation) would be an authorized use within the Light Industrial (M1) with Mineral Extraction Combining District (M1-ME), provided that a use permit is approved by the County. Increasing the allowed building height would not allow for an unauthorized land use, as underground mining is allowed by the applicable zoning (M1-ME) where a use permit is approved.

Nearly 70 years ago, the Idaho-Maryland Gold Mine used a 135-foot-tall headframe, which stood atop of the still-existing 85-foot concrete silo located at the Brunswick Industrial Site. The 85-foot concrete silo has remained in place, representing the property's historic mining use. The planned 165-foot headframe will be used with a friction hoist, which will safely assist miners going to and from the subsurface mineshafts, as the prior 135-foot headframe did as late as 1956. Additionally, since the gold mineralization is deeper than it was 70 years ago, the 165-foot headframe is necessary to successfully produce roughly 1,000 tons per day

(365,000 tons per year) of gold mineralization. Since the property has been historically and is currently zoned for subsurface mining, the only way to safely and adequately conduct subsurface mining on the property is with the 165-foot headframe. The height variance is appropriate because the variance simply facilitates a structure required for a use already authorized within the zoning district.

- D. The granting of the variance does not, under circumstances and conditions applied in the particular case, adversely affect the public health, safety, or welfare, the integrity and character of the District, nor the utility and value of nearby property.

The height of Project structures, as allowed by the variance, will not adversely affect the health or safety of persons residing or working in the neighborhood, because such structures mirror the historic and existing structures on site and will be subject to all applicable safety standards. In the context of the variance findings, public health, safety or welfare generally refers to the protection and wellbeing of the public. The increased building heights are designed, constructed, and will be operated in compliance with the Occupational Safety and Health Administration (OSHA) requirements, zoning standards, the County building code, the Health and Safety code, Nevada County Consolidated Fire District rules, and other applicable County and State regulations, including conditions of approval imposed by the Conditional Use Permit. Compliance with these laws and regulations, which were designed for the protection and wellbeing of the public, would ensure that the project, including the taller structures allowed by the variance, would not cause harm to the public or adversely affect the public's wellbeing.

- E. The variance is consistent with the Nevada County General Plan, including the allowed uses within the Industrial General Plan land use designation. Table 1.4 of the Nevada County General Plan provides that the maximum building height for Industrial Zones (including the M1 zone where the Brunswick site is located) is 45 feet; however, footnote 2 (applicable to the height limit in the Industrial Zones), provides that "Discretionary and administrative permits will be required for special uses that would need to exceed the allowable height." (Nevada County General Plan, Volume I – Pages 1-38, 1-39.) In this case, the variance would be a discretionary permit required for a special use (underground mining) to allow exceedance of the 45-foot height limit. As such, if the County approves a variance for the structures that exceed the General Plan's 45-foot height limit, such structures will be consistent with General Plan's requirement that structures in excess of 45-feet in the M1 zone receive a discretionary permit (variance) to allow the excess height. Notable, this property has had an existing 85-foot concrete silo on the property for nearly 70 years, if not longer.
- F. The variance is the minimum departure from the requirements of this ordinance necessary to grant relief to the applicant.

The building heights are the minimum required to make the mining operations feasible and ensure the safe operation and movement of personnel and equipment. A new headframe building will be constructed at the location of the existing Brunswick Shaft and concrete silo. In order to safely access the underground workings and place rock into the concrete silo the

headframe must be a height of 165 feet. The new Service Shaft headframe requires a height of 80 feet in order to allow hoisting of cages to transport people, materials, and equipment to and from the underground mine. Hoist buildings for the Brunswick and Service shafts must be 50 feet in height to accommodate the hoist and hoist cable for the headframes. The Process Plant building requires a height of 64 feet to allow sufficient noise insulation and the necessary machinery for the backfill plant to be installed and for an overhead hoist system to be installed in the building to install, replace, and maintain process equipment. While shorter structures were considered, they do not meet the operational needs of the Project to develop a modern and efficient underground mining operation. Taller structures were also considered, but the Applicant has proposed the shortest industry-standard mining structures that meet Project objectives. Accordingly, the heights requested by the variance represent the minimum departure from the requirements of this ordinance necessary to grant relief to the Applicant.

Headframes used in modern mining operations range from 100-200 feet tall. For example, Butte Montana currently has 14 remaining headframes, all of which range from 100-200 feet tall. The 165-foot requested height variance does not come close to some headframes, such as Canada's K2 headframe, measuring at 311 feet tall, nearly twice the height of the requested variance. Since the early 1900s, headframes began exceeding 100 feet in height, and since modern technology, heights have continued to increase.

- V. Project Action: Recommend that the Board of Supervisors approve the Management Plan (MGT19-0039) for the *Centennial Industrial Site Habitat Management Plan for the Pine Hill Flannelbush*, pursuant to Nevada County LUDC, Section L-II 4.3.3, subject to the recommended Conditions of Approval and Mitigation Measures found in the Mitigation Monitoring and Reporting Program (*Attachment 1*) and as have been modified by Erratum to the Idaho-Maryland Mine Project Final Environmental Impact Report, dated April 2023 (*Attachment 3*), making findings A and B:
- A. That the issuance of this Management Plan is consistent with the provisions of Section 4.3. Resource Standards of the Nevada County Land Use and Development Code; and,
 - B. That potentially significant impacts to the *Pine Hill Flannelbush* located on the project site have been minimized through the incorporation of mitigation measures, primarily requiring compliance with the *Centennial Industrial Site Habitat Management Plan for the Pine Hill Flannelbush* have been incorporated into the mitigation measures and conditions of approval that minimize potential impacts on the physical environment.
- VI. Project Action: Recommend that the Board of Supervisors approve the Management Plan (MGT19-0039) for the *Centennial Industrial Site Idaho-Maryland Mine Project, Watercourse / Wetlands / Riparian Areas Management Plan*, pursuant to Nevada County LUDC, Section L-II 4.3.3, subject to the recommended Conditions of Approval and Mitigation Measures found in the Mitigation Monitoring and Reporting Program (*Attachment*) and as have been modified by Erratum to the Idaho-Maryland Mine Project

Final Environmental Impact Report, dated April 2023 (*Attachment 3*), making findings A and B:

- A. That the issuance of this Management Plan is consistent with the provisions of Section 4.3 Resource Standards of the Nevada County Land Use and Development Code; and,
 - B. That potentially significant impacts to water course, riparian areas and habitats located on the project site have been minimized through the incorporation of mitigation measures, primarily requiring compliance with the *Centennial Industrial Site Idaho-Maryland Mine Project, Watercourse / Wetlands / Riparian Areas Management Plan*, have been incorporated into the mitigation measures and conditions of approval that minimize potential impacts on the physical environment.
- VII. Project Action: Recommend that the Board of Supervisors approve the Management Plan (MGT19-0039) for the *Brunswick Industrial Site and East Bennett Road Right of Way (ROW), Watercourse/Wetlands/Riparian Areas Management Plan*, pursuant to Nevada County LUDC, Section L-II 4.3.3, subject to the recommended Conditions of Approval and Mitigation Measures found in the Mitigation Monitoring and Reporting Program (*Attachment 1*) and as have been modified by Erratum to the Idaho-Maryland Mine Project Final Environmental Impact Report, dated April 2023 (*Attachment 3*), making findings A and B:
- A. That the issuance of this Management Plan is consistent with the provisions of Section 4.3 Resource Standards of the Nevada County Land Use and Development Code; and,
 - B. That potentially significant impacts to water course, riparian areas and habitats located on the project site have been minimized through the incorporation of mitigation measures, primarily requiring compliance with the *Brunswick Industrial Site and East Bennett Road Right of Way (ROW), Watercourse/Wetlands/Riparian Areas Management Plan*, have been incorporated into the mitigation measures and conditions of approval that minimize potential impacts on the physical environment.
- VIII. Project Action: Recommend that the Board of Supervisors approve the Management Plan (MGT19-0039) for the *Brunswick Industrial Site and East Bennett Road Right of Way (ROW), Watercourse/Wetlands/Riparian Areas Management Plan*, pursuant to Nevada County LUDC, Section L-II 4.3.3, subject to the recommended Conditions of Approval and Mitigation Measures found in the Mitigation Monitoring and Reporting Program (*Attachment 1*) and as have been modified by Erratum to the Idaho-Maryland Mine Project Final Environmental Impact Report, dated April 2023 (*Attachment 3*), making findings A and B:
- A. That the issuance of this Management Plan is consistent with the provisions of Section 4.3 Resource Standards of the Nevada County Land Use and Development Code; and,

- B. That potentially significant impacts to water course, riparian areas and habitats located on the project site have been minimized through the incorporation of mitigation measures, primarily requiring compliance with the *Brunswick Industrial Site and East Bennett Road Right of Way (ROW), Watercourse/Wetlands/Riparian Areas Management Plan*, have been incorporated into the mitigation measures and conditions of approval that minimize potential impacts on the physical environment.
- IX. Project Action: Recommend that the Board of Supervisors approve the Management Plan (MGT19-0039) for the *Brunswick Industrial Site: Management Plan for Potential Seismic Hazards*, pursuant to Nevada County LUDC, Section L-II 4.3.3, subject to the recommended Conditions of Approval and Mitigation Measures found in the Mitigation Monitoring and Reporting Program (*Attachment 2*) and as have been modified by Erratum to the Idaho-Maryland Mine Project Final Environmental Impact Report, dated April 2023 (*Attachment 3*), making findings A and B:
- A. That the issuance of this Management Plan is consistent with the provisions of Section 4.3 Resource Standards of the Nevada County Land Use and Development Code; and,
 - B. That potentially significant impacts to seismic hazards located on the project site have been minimized through the incorporation of mitigation measures, primarily requiring compliance with the *Brunswick Industrial Site: Management Plan for Potential Seismic Hazards*, have been incorporated into the mitigation measures and conditions of approval that minimize potential impacts on the physical environment.
- X. Project Action: Recommend that the Board of Supervisors approve the Management Plan (MGT19-0039) for the *Brunswick Industrial Site: Management Plan for Steep Slopes and High Erosion Potential*, pursuant to Nevada County LUDC, L-II Section 4.3.3, subject to the recommended Conditions of Approval and Mitigation Measures found in the Mitigation Monitoring and Reporting Program (*Attachment 1*) and as have been modified by Erratum to the Idaho-Maryland Mine Project Final Environmental Impact Report, dated April 2023 (*Attachment 3*), making findings A through F:
- A. The while construction and development lies within areas designated as being within areas with Steep Slopes greater than 30-perent and High Erosion Potential, though the recommendations in the *Brunswick Industrial Site: Management Plan for Steep Slopes and High Erosion Potential* Management Plan consists of Erosion and Sediment Control Plans prepared by a Civil Engineer. The Plans comply with the erosion control standards of Nevada County Land Use and Development Code Chapter V: Buildings; and provides structural control of flowing water and vegetative measures necessary to stabilize soil surfaces. Only certified weed-free seed mixes will be used where seeding is deemed necessary, and;
 - B. That there is not feasible alternative location for the proposed improvements due to the subject parcel size and location of slopes greater than 30-percent occurring throughout the property; and,

- C. The aesthetic quality of the slope is ensured, including the preservation of significant rock outcroppings and native plant materials, and;
 - D. Alternatives to development on steep slopes are not feasible, and;
 - E. The disturbance of steep slopes is minimized to the greatest extent possible, and;
 - F. Water quality problems created by sedimentation and/or excessive vegetation removal are minimized.
- XI. Project Action: Recommend that the Board of Supervisors approve the Management Plan (MGT19-0039) for the *Centennial Industrial Site: Management Plan for Steep Slopes and High Erosion Potential*, pursuant to Nevada County LUDC, Section L-II 4.3.3, subject to the recommended Conditions of Approval and Mitigation Measures found in the Mitigation Monitoring and Reporting Program (*Attachment 1*) and as have been modified by Erratum to the Idaho-Maryland Mine Project Final Environmental Impact Report, dated April 2023 (*Attachment 3*), making findings A through F:
- A. The while construction and development lies within areas designated as being within areas with Steep Slopes greater than 30-perent and High Erosion Potential, though the recommendations in the *Centennial Industrial Site: Management Plan for Steep Slopes and High Erosion Potential* Management Plan consists of Erosion and Sediment Control Plans prepared by a Civil Engineer. The Plans comply with the erosion control standards of Nevada County Land Use and Development Code Chapter V: Buildings; and provides structural control of flowing water and vegetative measures necessary to stabilize soil surfaces. Only certified weed-free seed mixes will be used where seeding is deemed necessary, and;
 - B. That there is not feasible alternative location for the proposed improvements due to the subject parcel size and location of slopes greater than 30-percent occurring throughout the property; and,
 - C. The aesthetic quality of the slope is ensured, including the preservation of significant rock outcroppings and native plant materials, and;
 - D. Alternatives to development on steep slopes are not feasible, and;
 - E. The disturbance of steep slopes is minimized to the greatest extent possible, and;
 - F. Water quality problems created by sedimentation and/or excessive vegetation removal are minimized.
- XII. Project Action: Recommend that the Board of Supervisors approve the Management Plan (MGT19-0039) for the *Floodplain Management Plan for Centennial Industrial Site*, pursuant to Nevada County LUDC, Section L-II 4.3.3, subject to the recommended

Conditions of Approval and Mitigation Measures found in the Mitigation Monitoring and Reporting Program (*Attachment 1*) and as have been modified by Erratum to the Idaho-Maryland Mine Project Final Environmental Impact Report, dated April 2023 (*Attachment 3*), making findings A and B:

- A. That the issuance of this Management Plan is consistent with the provisions of Section 4.3. Resource Standards of the Nevada County Land Use and Development Code; and,
- B. That potentially significant impacts to these resource features located on the project site have been minimized through the incorporation of mitigation measures, primarily requiring compliance with the *Floodplain Management Plan for Centennial Industrial Site*, have been incorporated into the mitigation measures and conditions of approval that minimize potential impacts on the physical environment.

XIII. Project Action: Recommend that the Board of Supervisors approve the Boundary Line Adjustment (LLA20-0006) to transfer approximately 46.27 acres for three separate parcels (APN: 009-630-009; 006-441-034 and 006-441-003) to reconfigure the property lines to resolve an issue of the proposed buildings crossing property lines at the Brunswick Industrial Site, pursuant to Nevada County LUDC, Section L-II 4.1.3, subject to the recommended Conditions of Approval and Mitigation Measures found in the Mitigation Monitoring and Reporting Program (*Attachment 1*) and as have been modified by Erratum to the Idaho-Maryland Mine Project Final Environmental Impact Report, dated April 2023 (*Attachment 3*), making findings A through D:

- A. That the proposed Boundary Line Adjustments will not result in conflicts with the Light-Industrial with Mineral Extraction Combining District (M1-ME) site development standards in Table L-II 2.5.E and Section L-II 2.7.3 of the Nevada County Land Use and Development Code; and,
- B. The proposed Boundary Line Adjustment would not result in any additional parcels, additional density or the potential for further division of these parcels beyond what currently exists; and,
- C. The proposed Boundary Line Adjustment would not adversely affect the future development potential of these parcels. The Nevada County Environmental Health Department has reviewed the proposed Boundary Line Adjustment and has not identified any conflicts that may result from the proposed adjustment.

XIV. Project Action: Recommend that the Board of Supervisors approve the Map Amendment (AAM21-0002) to the Final Map for Bet Acres, recorded in February 1987 in Book 7 of Subdivisions at Page 75, to remove the “200 foot Building Setback From Fault”, as shown on Sheet 4 of Final Map #85-7, for Parcels 7 & 8, pursuant to Nevada County LUDC, Section L-IV 2.18(D), subject to the recommended Conditions of Approval and Mitigation Measures found in the Mitigation Monitoring and Reporting Program (*Attachment 1*) and as have been modified by Erratum to the Idaho-Maryland Mine Project Final Environmental Impact Report, dated April 2023 (*Attachment 3*), making findings A through G:

- A. That the Amended Map is consistent with Nevada County Land Use and Development Code, Sections L-II 4.3.8, which defines impacts of Earthquake Faults & Seismically Sensitive Areas as an Environmentally Sensitive Resource; and,
 - B. That the requested change will have a cumulatively minor impact on the subdivision and its associated impacts; and,
 - C. That the Final Map, as amended conforms to the provisions of Government Code Section 66474; and,
 - D. That the requested change would not affect any of the other findings for approval required by the local Subdivision Ordinance; and,
 - E. There are changes in the circumstances which make the conditions sought to be changed no longer appropriate or necessary as the geotechnical support for removing this setback is provided in Chapter 4.6, Geology, Soils, and Mineral Resources of the EIR that make the aspects sought to be changed no longer appropriate or necessary; and,
 - F. The modifications do not impose any additional burden on the present fee owner of the property; and,
 - G. The modifications do not alter any right, title, or interest in the real property reflected on the map recorded as Parcels 7 & 8 in Book 7 of Subdivisions at Page 75.
- XV. Project Action: Recommend the Board of Supervisors adopt an Ordinance approving the Development Agreement (MIS22-0019), pursuant to Nevada County Land Use and Development Code Section L-II 5.18.E, making findings A through E:
- A. That the proposed project is consistent with the goals, objectives, policies and applicable land use designations of the Nevada County General Plan, including policies encouraging efficient, orderly development; and,
 - B. That the proposed project complies with all of the provisions of the Nevada County Land Use and Development Code; and,
 - C. That the proposed project is consistent with the public convenience, general welfare, and good land use practice, making it in the public interest to enter into the development agreement with the applicant; and,
 - D. That the Development Agreement is consistent with the requirements of California Government Code Section 65864 et seq., allowing for a Development Agreement between the developer and the County.
 - E. That the proposed project will not:
 - 1. Adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area; and,

2. Be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site; and,
3. Jeopardize, endanger, or otherwise constitute a menace to the public health, safety or general welfare; and,
4. Adversely affect the orderly development of property or the preservation of property values.

Item Initiated by: Matt Kelley, Senior Planner

Approved by: Brian Foss, Planning Director