Consider recommendation from Planning Commission to approve applications for Annexation (10PLN-03), Prezoning (10PLN-05), Planned Development (10PLN-04), and Tentative Map (10PLN-06) for Berriman Ranch Project located west of Taylorville Road, east of the Carriage House and Gazebos projects, and south of the Kmart/SPD shopping center (APN’s 22-140-03 and 22-160-03).

After conducting the public hearing: 1) waive the reading of the ordinance in its entirety and read by title only, 2) introduce ordinance rezoning 121 acres to RE, and 3) adopt resolution No. 2010-79 approving the annexation, planned development, and tentative map, and adopting the Mitigated Negative Declaration pursuant to the provisions of the California Environmental Quality Act (CEQA).

On October 14, 2010, the Planning Commission recommended the City Council approve the Berriman Ranch project. The attached Planning Commission report provides a more detailed description of the project, background, and the environmental review.

The project consists of the following four applications:

1. An annexation of the entire 121 acres. This includes an amendment to the Sphere of Influence annexation time horizon from 2016-2020 to 2006-2010.
2. A rezoning of the entire 121 acres from the County’s R2, C2, and RA 1.5 zoning districts to the City’s RE (Estate Residential) zoning district.
3. A tentative map for 30 single-family residential lots on approximately 10 acres located at the northwest corner of the property.
4. A planned development to allow clustering of the homes, and the reduction in lot sizes and setback standards.

The applicant proposes development on 10 acres only at this time. The remaining 111 acres are not planned for development; however, the City’s 2020 General Plan and rezoning allows for a potential 91 additional homes. The applicant included a map identifying potential future development pods on the remaining 111 acres. Attachment 4 includes the Berriman Ranch Project Summary. This report provides supplemental information on the project, a fiscal analysis, maps and exhibits, and greenhouse gas mitigation. The Planning Commission determined all the project’s environmental impacts will be mitigated, and the project is consistent with the City’s General Plan, Development Code, and Design Guidelines.
Funds Available: N/A

Route to be Reviewed by:

City Administrator

Action:

- Approved
- Denied
- Approved with Modifications
- Other

Attachments:
1) Ordinance
2) Resolution
3) October 14, 2010 Staff Report to Planning Commission, including the proposed Mitigated Negative Declaration, Addendum, and Mitigation Monitoring Program
4) Maps / Exhibits from Applicant, including the Project Summary Report.

cc: Applicant
SR Jones, Nevada County LAFCO – email
Jory Stewart, Nevada County Planning - email
Nevada Irrigation District – email
Carriage House HOA – email
Gazebos HOA - email
Attachment 1
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GRASS VALLEY APPROVING A ZONING MAP AMENDMENT PREZONING 121 ACRES TO RE (RESIDENTIAL ESTATE) FOR ASSESSOR’S PARCEL NUMBERS 22-140-03 AND 22-160-03

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GRASS VALLEY AS FOLLOWS:

SECTION 1. That the City of Grass Valley Zoning Map is hereby amended as shown in Exhibit "A".

SECTION 2. In compliance with Chapter 17.94 of the City Development Code, the City Council adopts the following findings in support of this amendment to the Zoning Map:

1. The proposed amendment is consistent with the General Plan. Rationale: The 2020 General Plan Land Use Map designates the subject 121 acres as Urban Estate Density. The proposed RE zoning is the consistent zoning designation for the General Plan’s Urban Estate Density Land Use.

2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City. Rationale: The proposed prezoning is the appropriate zoning to implement the City’s General Plan and anticipated land use for these 121 acres. As conditioned and noted in the adopted Mitigated Negative Declaration, the proposal will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

3. The affected site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc.), to ensure that the proposed or anticipated uses and/or development would not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located. Rationale: The project site has access to full public services,
and is designed to comply with all applicable public service standards. The proposed residential use avoids sensitive resources and constraints on the property, and will not create a hazard to the property or adjacent properties.

SECTION 3. The City Council amends the Zoning Map as shown in Exhibit “A” through the approval of this ordinance.

SECTION 4 This ordinance shall take effect thirty (30) days from and after the date of its adoption and a summary of said ordinance shall be published once within fifteen (15) days upon its passage and adoption in The Union, a newspaper of general circulation printed and published in the Grass Valley Area.

INTRODUCED and first read on the 14th day of December, 2010

PASSED AND ADOPTED this __th day of January, 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

/s/
Lisa Swarthout, Mayor

ATTEST:

/s/
Kristi K. Bashor, City Clerk

APPROVED AS TO FORM:

/s/
Ruthann G. Ziegler, City Attorney

PUBLISH DATE: ____________________
Exhibit A
City of Grass Valley - Zoning Amendment Application

December 5, 2010

Parcel 22-140-03: Prezone to RE (Residential Estate)

Parcel 22-160-03: Prezone to RE (Residential Estate)
Attachment 2
RESOLUTION NO. 2010-79

A RESOLUTION OF APPLICATION BY THE CITY OF GRASS VALLEY REQUESTING THE NEVADA COUNTY LOCAL AGENCY FORMATION COMMISSION CONDUCT PROCEEDINGS FOR ANNEXATION APPLICATION 10PLN-03 TO ANNEX APPROXIMATELY 121 ACRES LOCATED AT WEST OF TAYLORVILLE ROAD (APNS 22-140-03 AND 22-160-03)

WHEREAS, the applicant for the Berriman Ranch project submitted complete applications for an annexation (10PLN-03), prezone (10PLN-05), planned development (10PLN-04), and tentative map (10PLN-06) on April 20, 2010; and

WHEREAS, the properties are contiguous to the existing City boundaries; and

WHEREAS, the properties are located within the Planning Area for the currently adopted Grass Valley 2020 General Plan, and within the 2000-2005 annexation time horizon for the City’s Sphere of Influence; and

WHEREAS, on March 24, 2009, the Grass Valley City Council adopted resolution 09-15, which supported the annexation of the subject properties prior to the year 2016; and

WHEREAS, on October 14, 2010, the Planning Commission conducted a public hearing to consider all testimony relative to the Berriman Ranch project and recommended approval of these applications to the City Council; and

WHEREAS, Section 1.08.010 of the Grass Valley Municipal Code requires all proposed annexations to the City to be prezoned or preplanned by the Planning Commission prior to City Council authorizing submittal of an application to the Local Agency Formation Commission; and

WHEREAS, the City of Grass Valley desires to initiate proceedings pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, commencing with Section 56000 of the California Government Code, for annexation of said 121 acres; and

WHEREAS, annexation is a prerequisite for any new sewer connection that is necessary for future development on one of the properties; and

WHEREAS, it is the City Council’s desire that the proposed annexation be subject to the following terms and conditions:
1. That this annexation is subject to the terms of the MASTER TAX EXCHANGE AGREEMENT, entered into by the City Council and Board of Supervisors on October 9, 2001.

2. That the territory to be annexed to the City be detached from Nevada County Consolidated Fire District.

3. That the territory to be annexed to the City shall be subject to the levying or fixing and collection of any previously authorized taxes, benefit assessments, fees or charges of the City.

WHEREAS, the City completed the Initial Study in compliance with the California Environmental Quality Act and concluded that the project may have potentially significant impacts on the environment. Mitigation measures are included in the project to fully mitigate all potentially significant impacts on the environment. The City circulated the proposed Mitigated Negative Declaration for public review from June 28, 2010 to July 28, 2010 and has not received any comments or substantial evidence that the project will have a significant effect on the environment; and

WHEREAS, upon conclusion of the public review period, the City prepared an Addendum to clarify and make insignificant modifications and determined the changes will not lead to any new potential impacts to the environment; and

WHEREAS, the City Council has independently reviewed, analyzed and considered the proposed Mitigated Negative Declaration prior to making its decision on this project, and the Mitigated Negative Declaration reflects the independent judgment of the City of Grass Valley.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Grass Valley does hereby adopt the Mitigated Negative Declaration and approve Annexation (10PLN-03), Planned Development (10PLN-04), and Tentative Map (10PLN-06) applications for the (APNs 22-140-03 AND 22-160-03) subject to the findings and conditions listed in Exhibit "B", and

BE IT FURTHER RESOLVED, by the Council of the City of Grass Valley, as follows:
   1. That the foregoing statements are true and correct.

   2. That this Resolution of Application is hereby adopted and approved by the City Council of the City of Grass Valley, and the Local Agency Formation Commission of Nevada County is hereby requested to take proceedings for the annexation of the territory as described in Exhibit "A", according to the terms and conditions stated above and in the manner provided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.
3. That the City Clerk shall file a certified copy of this resolution with the Executive Officer of LAFCO pursuant to Section 56802 of the Government Code.

4. That the conditions of approval attached as Exhibit "B" for this project will become effective upon the annexation of this property to the City of Grass Valley.

ADOPTED as a Resolution of the City Council of the City of Grass Valley at a meeting

RESOLUTION NO.-

AYES in favor of:

NOES:

ABSENT:

ABSTAIN:

Lisa Swarthout, MAYOR

ATTEST: Kristi K. Bashor, CITY CLERK

APPROVED AS TO FORM:

/s/ Ruthann G. Ziegler, City Attorney
Exhibit A
ANNEXATION NO._________ TO THE CITY OF GRASS VALLEY BEING A PORTION OF SECTION 2, TOWNSHIP 15 NORTH, RANGE 8 EAST, 4TH PM.
WITHIN THE UNINCORPORATED TERRITORY OF NEVADA COUNTY, CALIFORNIA
JANUARY, 2010
SCALE 1" = 200'

PROPOSED RIGHT-OF-WAY FOR FAIRVILLE ROAD CONNECTION

PROPOSED RIGHT-OF-WAY FOR FUTURE CRESTVIEW DRIVE CONNECTION

OVERALL ANNEXATION AREA
121± ACRES

EASEMENTS THAT MAY AFFECT THIS PROPERTY
1. Easement for water ditch, recorded April 14, 1884 per Book 65 of Deeds, Page 542.
2. Easement for a ditch & flume, recorded November 9, 1895 per Book 65 of Deeds, Page 534.
5. Easement to PT&T, recorded April 10, 1951 per Book 161 of Official Records, Page 142.

RECORDED AT THE REQUEST OF S.R. JONES, EXECUTIVE OFFICER OF THE NEVADA COUNTY LOCAL AGENCY FORMATION COMMISSION AT ___________ AM/PM 11-11-10 DAY OF ___________ 2010, IN BOOK OF SURVEYS AT PAGE ___________( ), NEVADA COUNTY RECORDS.

DOCUMENT NO.: GREGORY J BIAZ
COUNTY CLERK-RECORDER

FEE: DEPUTY

APPROVED BY NEVADA COUNTY LOCAL AGENCY FORMATION COMMISSION RESOLUTION NO.:__

DATE: ____________

PURSUANT TO SECT 57208 OF THE GOVERNMENT CODE, THIS MAP, WHEN RECORDED WAS ACCOMPANIED BY A CERTIFIED COPY OF THE BOUNDARY DESCRIPTION OF THE TERRITORY SHOWN ON SAID MAP AND CERTIFICATE OF CONFINEMENT IS RECEIVED AN DOC. NO.: ___________, NEVADA COUNTY RECORDS.

S. R. JONES
EXECUTIVE OFFICER, L.A.F.C.O.

PROPERTY OWNER
ASSET PROPERTY MANAGEMENT, INC.
1905 ENGINEER ROAD, SUITE 108
SAN DIEGO, CA 92111
(858) 792-5500
CONTACT PERSON(S): FRED OLIVER & SANDY KAHN

THIS MAP WAS PREPARED BY OR UNDER THE DIRECTION OF:
 PATRICK D. VEST
L.S. 831
LICENSE NO. 1233
LICENSE EXPIRES 12/31/11

SHEET 1 OF 1
Exhibit B
Findings of Approval – Berriman Ranch

1. The City received the application packet for the Berriman Ranch project on January 6, 2010. After the City determined the applications were incomplete, the City received additional information and deemed the applications complete on April 20, 2010.

2. The City completed the Initial Study in compliance with the California Environmental Quality Act and concluded that the project may have potentially significant impacts on the environment. Mitigation measures are included in the project to fully mitigate all potentially significant impacts on the environment. The City circulated the proposed Mitigated Negative Declaration for public review from June 28, 2010 to July 28, 2010 and has not received any comments or substantial evidence that the project will have a significant effect on the environment.

3. Since the conclusion of the public review period for the proposed Negative Declaration, the City prepared an Addendum to clarify and make insignificant modifications and determined the changes will not lead to any new potential impacts to the environment.

4. The City Council has independently reviewed, analyzed and considered the proposed Mitigated Negative Declaration prior to making its decision on this project, and the Mitigated Negative Declaration reflects the independent judgment of the City of Grass Valley.

5. On October 14, 2010, the Planning Commission conducted a public hearing and reviewed and considered the Berriman Ranch project.

6. On December 14, 2010, the City Council conducted a public hearing and reviewed and considered the Berriman Ranch project.

7. This project is consistent with City’s General Plan.

8. The project, as conditioned, is consistent with the applicable sections and development standards in the Development Code.

9. Even though not specifically required, the project complies with the general principles listed in the Community Design Guidelines and the goals and policies in the Community Design Element.

10. The proposed Tentative Map complies with the Development Code and is allowed in the RE Zoning District.

11. That the site is physically suitable for the type of development.
12. The approved modifications to the development standards of the Development Code are necessary and appropriate to accommodate the superior design of the proposed project.

13. The project can be adequately and reasonably served by public facilities, services and utilities.

14. The location, size, planning concepts, design features, and operating characteristics of the project are and will be compatible with the character of the site and the land uses and development intended for the surrounding neighborhood by the General Plan.

15. The establishment, maintenance, or operation of the use would not, under the circumstances be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use, or detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

16. The project as proposed meets standards of density of dwelling units, light and air, open space and pedestrian and vehicular circulation which are similar to those required by the regulations of the zone in which the development is located.
Conditions of Approval – Berriman Ranch

1. The applicant/developer shall implement the plans approved by the Grass Valley City Council, dated stamped March 3, 2010, for the following applications: Annexation 10PLN-03, Prezone 10PLN-05, Planned Development 10PLN-04, and Tentative Map 10PLN-06. The Planning Department may approve minor changes as determined appropriate by the Community Development Director. The Planning Commission shall approve all other changes deemed not minor.

2. The applicant agrees to defend, indemnify, and hold harmless the City in any action or proceeding brought against the City to void or annul this discretionary land use approval.

3. The applicant shall file a Notice of Determination, including payment of associated fees, in the office of the County Clerk within (5) days after the approval date of the project. The applicant shall provide a copy of the notice to the City.

PRIOR TO ISSUANCE OF A GRADING PERMIT, THE FOLLOWING CONDITIONS SHALL BE SATISFIED:

4. The applicant shall submit to the City Engineer for review and approval, an improvements and grading plan prepared by a Registered Civil Engineer; shall obtain a Grading Permit; and shall pay all appropriate fees for plan check and inspection. The grading and improvement plans shall include but not be limited to roadway/driveway slopes and elevations, curb, gutters, sidewalks, striping and signing, paving, water and sewer pipelines, storm drains, street/parking lot lights, retaining walls, and all easements, in accordance with City Improvement Standards.

5. The project developer shall adhere to the following tree protection measure as noted on the plans during any construction activities:

All trees to be saved shall be enclosed by a construction barrier placed around the dripline zone of the tree. The construction barrier shall consist of four-foot tall mesh safety fencing in a bright color. The fencing shall be tied to six-foot tall metal poles spaced a maximum of twenty feet apart. Each pole shall be placed with two feet below the surface of the ground.

6. The applicant shall:
   a. Obtain the applicable harvest document(s) from the California Department of Forestry and Fire Protection and submit a copy of the approved document to the City. Either:
      1. Less Than 3 Acre Conversion Exemption. Any project with less than 3 acres of land disturbance may qualify (see 14 CCR 1104.1
2. Timberland Conversion (PRC4621) and Timber Harvest Plan (PRC4581). Any project with 3 acres or greater or that do not meet the conditions in 14 CCR 1104.1 (a)(2).

b. Obtain a tree removal permit from the Grass Valley Public Works Department.

7. The applicant shall submit to the City Engineer for review and approval two copies of a detailed Soils Engineering Report and Engineering Geology Report certified by a Civil Engineer registered in the State of California. In addition to the California Building Code requirements, the report shall specify the pavement structural sections for the proposed roadways in relation to the proposed traffic indexes. The improvements and grading plans shall incorporate the recommendations of the approved Soils Engineering Report and Engineering Geology Report. The project developer shall retain a civil engineer, soils engineer, and engineering geologist to provide professional inspection of the grading operations. If work is observed as not being in compliance with the California Building Code and the approved improvements and grading plans, the discrepancies shall be reported immediately in writing to the permittee, the building official, and the Engineering Division.

8. The applicant shall prepare a detailed engineering plan that incorporates recommendations identified in the Preliminary Geotechnical Report dated December 13, 2006. Geotechnical measures shall be incorporated into project grading and construction. A Geotechnical Engineer shall be retained for observation during grading operations to ensure implementation of those recommendations included within the Geotechnical Report. (Mitigation Measure10)

9. If any retaining walls or other wall structures equal to or greater than four feet in height (from the base of the footing to the top of the wall) are identified on the grading/improvement plans, the applicant shall:
   a. Place a note on the grading/improvement plans stating that any walls equal to or greater than four feet in height will require a Building Permit prior to being constructed.
   b. Submit design calculations for the wall(s) for review and acceptance.
   c. If the proposed wall(s) are to be constructed against a cut slope, in a manner of which will not meet minimum OSHA requirements, submit:
      1. A signed and stamped letter from a Licensed Civil Engineer or Geotechnical Engineer identifying a temporary shoring plan and how the cut slopes for the walls will be protected from the weather during construction.
      2. A signed and stamped letter from a Licensed Civil Engineer or Geotechnical Engineer stating that a copy of the required OSHA Permit will be supplied to the City prior to any excavation on the site.
and that a qualified OSHA Approved Inspector or Professional Civil Engineer will: 1) be onsite during excavation for and construction of the retaining walls; 2) be onsite at least once a day during inclement weather; and 3) will submit daily reports to the City.

10. The applicant shall submit a Storm Water Pollution Prevention Plan (SWPPP) to the City for acceptance, file a Notice of Intent with the California Water Quality Control Board and comply with all provisions of the Clean Water Act. The applicant shall submit the Waste Discharge Identification number, issued by the state, to the Engineering Division.

11. If a streambed crossing is proposed, the applicant shall obtain a Streambed Alteration Permit from the California Department of Fish and Game or obtain a letter of exemption. A copy of the approved Streambed Alteration Permit and associated documents, or letter of exemption shall be submitted to the Engineering Division.

12. The applicant shall submit to the City Engineer for review and approval, final drainage plans, hydrologic, and hydraulic calculations prepared by a Registered Civil Engineer. The drainage plans and calculations shall indicate the following conditions before and after development:

Quantities of water, water flow rates, major watercourses, drainage areas and patterns, diversions, collection systems, flood hazard areas, sumps and drainage courses. Hydrology shall be in accordance with the City of Grass Valley Improvement Standards and Specifications and Master Plan Drainage Standards.

In order to preclude significant impact to downstream properties, the applicant shall limit the storm water run-off after development to the pre-development conditions for the 10, 25, and 100 year storm events. The site drainage system shall incorporate water/oil separators, or other approved methods to prevent site contaminants from impacting downstream watersheds.

A maintainable detention device will be required (i.e. detention basin with maintenance access ramps, etc.).

13. The applicant shall submit an Improvement Performance Security (if a subdivision improvement agreement is not in place). The amount of the security shall be equivalent to ten (10) percent of the approved Engineer's cost estimate for the project. The estimate shall include the cost of tree replacement, erosion and sedimentation control, grading activities, any retaining walls required by the grading plans and all other improvements, excluding buildings. The minimum security amount shall be $5,000.00. The cost estimate shall be provided to the Engineering Division for review and
approval as a part of plan submittal. All costs shall include a ten (10) percent contingency.

14. The applicant shall submit a detailed grading, permanent erosion control plan for review and approval by the Engineering Division prior to commencing grading. Erosion control measures shall be implemented in accordance with the approved plans. Any expenses made by the City to enforce the required erosion control measures will be paid by the deposit.

15. The applicant shall submit a Dust Mitigation Plan for review and approval by the Northern Sierra Air Quality Management District and City Engineer. Dust mitigation measures shall be implemented in accordance with the approved Dust Mitigation Plan. The dust mitigation plan shall include the following:

a. The applicant shall be responsible for ensuring that all adequate dust control measures are implemented in a timely manner during all phases of project development and construction.

b. All material excavated, stockpiled, or graded shall be sufficiently watered, treated, or covered to prevent dust from leaving the property boundaries and causing a public nuisance or a violation of an ambient air standard. Watering should occur at least twice daily, with complete site coverage.

c. All land clearing, grading, earth moving, or excavation activities on the project shall be suspended as necessary to prevent excessive windblown dust when winds are expected to exceed 20 mph.

d. All inactive portions of the development site shall be covered, seeded, or watered until a suitable cover is established. Alternatively, the applicant shall be responsible for applying City approved non-toxic soil stabilizers (according to manufactures specifications) to all inactive construction areas (previously graded areas which remain inactive for 96 hours) in accordance with the local grading ordinance.

e. All areas with vehicle traffic shall be watered or have dust palliative applied as necessary for regular stabilization of dust emissions.

f. All material transported off-site shall be either sufficiently watered or securely covered to prevent public nuisance.

g. Paved streets adjacent to the project shall be swept or washed at the end of each day, or as required to remove excessive accumulations of silt and/or mud which may have resulted from activities at the project site.

h. No burning of waste material or vegetation shall take place on-site unless alternatives to burning are deemed infeasible by the District. Alternatives to burning include chipping, mulching or converting to biomass. (Mitigation Measure 2)
16. The applicant shall submit sewer calculations for the proposed development and any calculations necessary to verify the existing sewer system's ability to carry the additional flow created by the development.

17. The improvements and grading plans shall be signed by all other jurisdictional agencies involved (i.e. Nevada Irrigation District), prior to receiving City Engineer approval.

18. Per the Development Code, the Grading Permit shall expire one (1) year from the effective date of the permit unless an extension is granted by the City Engineer (for up to 180 days).

19. The applicant shall prepare a vegetative fuel management plan to be approved by the Community Development Director and City Fire Department. The vegetative fuel management plan shall include provisions for the reduction of, and the maintenance of, vegetative fuels on the adjacent undeveloped areas to the south and east of the 30-lot development. At a minimum, strategic fuel breaks will need to be constructed and maintained in these areas in such a manner as to slow or resist the spread of fire either into or away from the development while still maintaining adequate vegetation coverage to prevent soil erosion and the aesthetics of the area.

The plan would be required to address the management of vegetative fuels in those areas that may be considered environmentally sensitive, including, but not limited to, areas with steep slopes, wetland areas, and riparian areas.

The plan also needs to include provisions for annual maintenance of the vegetative fuels and provisions for funding the maintenance.

20. The grading and improvement plans shall include the emergency access road from Picadilly Lane to Taylorville Road. The emergency access roadway shall be designed and constructed as an all purpose weather road in accordance with Public Resources Code 4290, and capable of supporting a 40,000 lb vehicle.

21. The applicant shall submit final landscape and irrigation plans, prepared by a licensed landscape architect, for review and approval by the Planning and Engineering Divisions. Landscaping design shall comply with all provisions of the City's Water Efficient Landscape Ordinance. The landscape plans shall incorporate the following:

a. Preference should be given to the use of native plant species for landscaping. Utilize mulch in planting areas to maximize moisture retention. Incorporate existing trees into the landscape when feasible.
b. Preference should be given to the use of natural and indigenous stone and wood building materials for landscape structures, site walls, and outdoor areas. Integrate outdoor site features with the natural topography and vegetation where possible.

c. Incorporate natural cooling by utilizing shading from tree canopies for east and west-facing windows where possible.

22. The water system shown on the grading/improvement plans must be approved by the Nevada Irrigation District (NID) prior to the final acceptance of the plans by the City Engineer. The plans shall provide and dedicate an area for a vault at the water service boundary of adequate size to provide appropriate meters and valves for an inter-tie between the City's water system and NID's water system.

23. If any of the improvements which the applicant is required to construct or install is to be constructed or installed upon land in which the applicant does not have title or interest sufficient for such purposes, the applicant shall do all of the following at least 60 days prior to the filing of the final or parcel map or approval of the building permit(s) for approval pursuant to Government Code Section 66457:

a. Notify the City of Grass Valley in writing that the applicant wishes the City to acquire an interest in the land which is sufficient for such purposes as provided in Government Code Section 66462.5;

b. Supply the City with (i) a legal description of the interest to be acquired, (ii) a map or diagram of the interest to be acquired sufficient to satisfy the requirements of subdivision (e) of Section 1250.310 of the Code of Civil Procedure, (iii) a current appraisal report prepared by an appraiser approved by the City which expresses an opinion as to the current fair market value of the interest to be acquired, and (iv) a current Litigation Guarantee Report;

c. Enter into an agreement with the City, guaranteed by such cash deposits or other security as the City may require, pursuant to which the applicant will pay all of the City's cost (including, without limitation, attorney's fees and overhead expenses) of acquiring such an interest in the land.

PRIOR TO INITIATING GRADING AND/OR CONSTRUCTION OF THE SITE IMPROVEMENTS, THE DEVELOPER SHALL INITIATE THE FOLLOWING:

24. That prior to any work being conducted within the State, County or City right-of-way, the applicant shall obtain an Encroachment Permit from the appropriate Agency.

25. Prior to construction of the emergency access road or development on the remaining 111 acres, the applicant shall complete a wetlands delineation.
If the wetlands cannot be avoided through project design, the applicant shall submit pre-construction notification for use of a nationwide Section 404 permit or permits from the U.S. Army Corps of Engineers. The applicant shall also obtain Section 401 water quality certification from the Regional Water Quality Control Board and a Section 1602 streambed alteration agreement from the Department of Fish and Game. The project shall implement mitigation as approved by the agencies. Such mitigation actions shall include appropriate temporary and permanent Best Management Practices to protect water quality, as well as compensatory mitigation for the loss of habitat by means of payment of in-lieu fees, construction or enhancement of habitat, or a combination of these actions. (Mitigation Measure 8)

26. A minimum of forty-eight (48) hours prior to commencement of grading activities, the developer's contractor shall notify both the Planning and Engineering Divisions of the intent to begin grading operations. Prior to notification, all grade stakes shall be in place identifying limits of all cut and fill activities. After notification, Planning and Engineering staff shall be provided the opportunity to field review the grading limits to ensure conformity with the approved improvement and grading plans. If differences are noted in the field, grading activities shall be delayed until the issues are resolved.

27. Placement of construction fencing around all trees designated to be preserved in the project.

28. Submit evidence to the Community Development Department that a financial surety has been secured.

29. Submittal of two copies to the Engineering Division of the signed improvement/grading plans.

30. If tree removal takes place within the nesting season for Cooper's hawk or yellow warbler (between April 1 and July 15), the applicant, prior to issuance of a tree removal permit, shall have a qualified biologist conduct field surveys for active nests within 300 feet of the limits of tree removal or grading. If no nests are detected, construction activities may proceed with no further mitigation. If active nests are identified within 300 feet (for Cooper's hawk) or within 100 feet (for the yellow warbler) construction activities shall be prohibited within this buffer zone until the end of the nesting season or until the young have fledged. A qualified biologist shall monitor the nest site(s) to determine when the young have fledged and submit necessary reports to CDFG throughout the nesting season. (Mitigation Measure 7)
DURING CONSTRUCTION, THE FOLLOWING CONDITIONS SHALL APPLY:

31. If grading or other construction operations unearth archeological or historical artifacts or resources, construction activities shall cease. The Planning Department shall be notified of the extent and location of discovered materials so that they may be recorded by a qualified archaeologist. Disposition of artifacts shall comply with state and federal laws. A note of this requirement shall be clearly delineated on the grading and building plans of the project. If human burial or scattered human remains are inadvertently encountered during construction activities, the applicant shall inform the County Coroner pursuant to state law. (Mitigation Measure 9)

32. Grid power shall be used (as opposed to onsite diesel generators) for job site power needs where feasible during construction. (Mit. Measure 3)

33. Construction activities shall be scheduled to direct traffic flow to off-peak hours as much as practicable. (Mitigation Measure 4)

34. All construction-related traffic shall use the emergency access road and Taylorville Road to the extent feasible. The City recognizes that certain trucks will need to utilize Freeman and Picadilly Lanes to deliver some construction materials. However, all construction workers shall utilize Taylorville Road as the primary access during site construction.

35. If any hazardous waste is encountered during the construction of this project, all work shall be immediately stopped and the Nevada County Environmental Health Department and the City Inspector shall be notified immediately. Work shall not proceed until clearance has been issued by the appropriate agency.

36. Prior to final preparation of the subgrade and placement of pavement base materials, all underground utilities shall be installed and service connections stubbed out behind the hardscape improvement. Public utilities, Cable TV, sanitary sewers, and water lines, shall be installed in a manner which will not disturb the street pavement, curb, gutter and sidewalk, when future service connections or extensions are made.

37. The developer shall keep adjoining public streets free and clean of project dirt, mud, materials, and debris during the construction period.

38. Where soil or geologic conditions encountered in grading operations are different from that anticipated in the soil and/or geologic investigation report, or where such conditions warrant changes to the recommendations contained in the original soil investigation, a revised soil or geologic report shall be submitted by the applicant, for approval by the City Engineer.
shall be accompanied by an engineering and geological opinion as to the safety of the site from hazards of land slippage, erosion, settlement, and seismic activity.

39. Prior to placing the initial lift of asphalt and after all aggregate base is placed, all public sewer pipelines and storm drain pipelines shall be video inspected at the expense of the contractor/developer. All videotapes shall be submitted to the City. If any inadequacies are found, they shall be repaired prior to the placement of the final lift of asphalt.

40. No trucks may transport excavated material off-site unless the loads are adequately wetted and either covered with tarps or loaded such that the material does not touch the front, back, or sides of the cargo compartment at any point less than six inches to the top of the cargo compartment. Also, all excavated material must be properly disposed of in accordance with the City’s Standard Specifications.

41. The contractor shall comply with all Occupational Safety & Health Administration (OSHA) requirements.

PRIOR TO RECORDING THE FINAL MAP, THE FOLLOWING CONDITIONS SHALL BE SATISFIED:

42. A Grading Permit, as described above, shall be issued by the City Engineer and all improvements described on the plans shall be completed or the applicant shall enter into an agreement with the City Engineer to complete the grading and public improvements. Any necessary right-of-way required to complete the improvements will be acquired by the applicant at his/her expense.

43. The applicant shall submit to the City Engineer for review and approval a Final Map prepared by a Licensed Surveyor, or Registered Civil Engineer licensed to survey in the State of California, in accordance with the City’s Subdivision Ordinance No. 180 N.S. and the California Subdivision Map Act; and shall pay all appropriate fees for map check and recording.

44. The applicant shall provide to the Engineering Division an acceptable method, such as a homeowners association, tenant agreement, and/or CC&R’s to maintain the common areas for the residential areas, private drainage facilities and the open space. This shall include the funding mechanism for the maintenance of the emergency access road and vegetative fuels. The subdivider shall provide the appropriate documentation for review by the Community Development Director, Fire Department, and City Engineer (and City Attorney if determined necessary by the Community Development Director and/or City Engineer). CC&R’s must include a statement that they cannot be modified without the approval of the City of Grass Valley.
45. The applicant shall dedicate land, or pay a fee in-lieu of dedication, for park and recreation purposes in accordance with Section 17.86.030 of the City's Development Code.

46. The applicant shall offer for dedication to the City of Grass Valley, an 80-foot wide right-of-way for Crestview Drive as shown on the tentative map, unless the City determines the right-of-way of a lesser width or no longer needed prior to recording the final map.

47. If the applicant desires to record the Final Map prior to completion of the grading and improvements as shown on the approved grading and improvement plans, the applicant shall enter into an agreement to complete the grading and public improvements; and shall post sufficient surety guaranteeing the construction of all of the improvements, in accordance with the City's Development Code and the California Subdivision Map Act. The applicant must supply the City with a cost estimate, prepared by a licensed Civil Engineer, for all improvements shown on the grading/improvement plans. The cost estimate must be approved by the Engineering Division. The City will then prepare an agreement which will require City Council approval and will be required to be recorded prior to Final Map approval.

48. Form and record a Lighting and Landscaping Assessment District (if no other funding mechanism is established for the maintenance of landscaping and lighting) concurrently with the final/parcel map to fund maintenance costs for landscaping and street lighting accepted by the City.

49. Form and record a Benefit Assessment District (if no other funding mechanism is established for the maintenance of drainage and detention facilities) concurrently with the final/parcel map to fund maintenance costs for drainage and detention facilities accepted by the City.

50. The developer shall enter into a Development Agreement, Subdivision Improvement Agreement, or other agreement acceptable to the City that incorporates, enforces, and ensures compliance with certain measures and conditions, including, but not limited to those listed below:
   a. **Phasing of Future Development Sites.** Future development within the remainder 111-acre parcel shall take place within the future potential building areas as noted in the "Future Opportunity and Constraints Assessment Map", and any development in this area shall be deferred to 2016 or later. (Condition number 65)
   b. **Participation in Financing Mechanism to address capital improvements, public safety costs, and long-term maintenance costs.** The applicant or any future owners shall participate in the formation of a financing mechanism such as an Assessment District, a Community...
Facilities District (CFD), an endowment fund or service fee that would serve to address capital improvements, public safety costs and subsequent long-term maintenance costs. If, at the time of recording the Final Map for this project, the City has not identified, formed or facilitated the creation of such a financing mechanism, this requirement would not apply. (Condition number 51)

b. Participation in Financing Improvements to the Carriage House Wastewater Lift Station on Freeman Lane. This provision shall require the developer financially contribute their fair share portion of the cost to upgrade of the wastewater lift station on Freeman Lane to address potential odor issues. The developer's fair share portion shall be tied to their wastewater demand and the existing and projected usage of other approved and pending development projects that use the lift station.

c. Verification of Ownership and Maintenance of Undeveloped Areas:
1. Creation of Homeowner's Association and/or other mechanism which would own and maintain all common areas identified on the approved subdivision map. This provision shall confirm the responsibility requirements for maintaining all open space areas identified within the vegetative fuel management plan. (Condition numbers 19 and 44)
2. Assignment to parent property owner or other acceptable party, the ownership and maintenance responsibility for the emergency access road. (Condition number 44)
3. Assignment to parent property owner or other acceptable party, the responsibility for maintaining all open space areas within the 111-acre remainder parcel, including the vegetative fuel management plan and any off-site storm water detention facilities. (Condition number 44)

e. Evidence of Funding Availability Prior to Undertaking Construction Activities. This provision shall ensure that the developer demonstrates that he/she has the funding capability for undertaking the construction of this project prior to initiating any site disturbance activities (i.e. issuance of grading permit). (Condition number 25)

f. Implementation of a Local Preference for Selecting Contractors / Suppliers. The agreement shall enforce that the developer shall employ a “local preference” approach in using local contractors, suppliers, etc. in the construction and development of this project.

The review and approval process of a Development Agreement, Subdivision Improvement Agreement or other form of Agreement which incorporate the provisions listed above shall be done in accordance with the provisions of the City Municipal Code.

51. The applicant would be required to participate in other forms of financing mechanisms such as an Assessment District, a Community Facilities District (CFD), an endowment fund or service fee that would serve to
address capital improvements, public safety costs and subsequent long-term maintenance costs. The applicant shall cooperate in the formation and imposition of any special tax, service fee or assessment necessary to fund any services or infrastructure which is beyond what the City already provides to the property before the project was approved. The formation of an infrastructure or services CFD shall be pursuant to and consistent with the requirements of applicable City policies and Mello-Roos Community Facility Act of 1982 (Government Code Section 53311 et. seq.).

52. The applicant shall add, and/or modify, the following bullet points into the Chapter titled Berriman Ranch, Greenhouse Gas Mitigations from the Berriman Ranch Project Summary document, date stamped March 3, 2010:

a. Third bullet page 2 - At least 75% of the landscaping within the open space and common areas shall include native and/or drought tolerant landscaping. All trees along the southern exposure of homes shall be deciduous.

b. Second bullet page 3 – Size & orientation of windows & doors shall be designed to take advantage of sun, shade & wind conditions to minimize the home’s requirement on mechanical heating and cooling systems. Site buildings to take advantage of solar orientation. Proper building orientation facilitates the use of natural daylight.

c. Third bullet page 3 – The CC&R’s shall specify all homes will be provided with recycling and greenwaste containers provided by Waste Management or other provider of solid waste disposal.

d. Fifth bullet page 3 - Incorporate Natural Cooling by utilizing shading from tree canopies (for east & west facing glass), window overhangs and awnings and radiant heat-reflective barriers installed in attic spaces. Use deep window overhangs and/or trellises primarily on south and west facing glass to provide a balance between summer cooling and winter heating through solar gain. Use landscaping to shade east and west-facing windows. Any combination of natural cooling techniques can be used to reduce overheating in homes, reduce the need for air conditioning and reduce energy.

e. Seventh bullet page 3 - Provide a minimum 15% of the homes with Pre-Plumbing for Solar Water Heating. Insulated copper pipes may be pre-installed from the attic to a hot water closet or mechanical room for future solar installation. This option allows the homeowner to install an active solar system at a later date. Provide south-facing roof area for collectors and access for piping to a mechanical room.

f. Tenth bullet page 3 – All homes shall install Energy Star Certified Appliances. At a minimum, the following appliances are required to be Energy Star rated: dishwashers, refrigerator & washers/dryers. Energy Star heating and cooling equipment such as air conditioners, furnaces, boilers, heat-pumps and thermostats are also encouraged.

g. Eleventh bullet page 3 - All windows shall be Energy Star rated.
h. Twelfth bullet page 3 - Upgrade insulation to exceed California Title 24 requirements. Preference should be given to loose and spray cellulose insulation products that are made out of 100% recycled newspaper and that are treated with borates for fire and insect resistance. (Mitigation Measure 12)

**PRIOR TO ACCEPTANCE OF PUBLIC IMPROVEMENTS AND EXONERATION OF BONDS, OR OTHER FORM OF SECURITY, THE FOLLOWING CONDITIONS SHALL BE SATISFIED:**

53. Provide a Warranty and Guarantee security guaranteeing the public improvements for a period of one year in the amount of 10% of the total improvement costs.

54. The applicant shall offer to dedicate to the City for public use, all the public streets right-of-way or easements necessary to install, maintain, and re-install all public improvements described on the improvements and grading plans. All offers of dedication must be recorded and a copy provided to the Engineering Division.

55. Submit "As-built" plans, signed by the Engineer of Record, to the Engineering Division on Mylar and a CD with an AutoCAD (or equivalent) drawing of the public improvements.

56. Submit a final report prepared by the soils engineer, in accordance with the California Building Code, to the Engineering Division.

57. Submit a final report prepared by the geologist, in accordance with the California Building Code, to the Engineering Division.

58. The grading contractor shall submit a statement of conformance to the as-built plans and specifications.

**PRIOR TO ISSUANCE OF BUILDING PERMITS**

59. No wood burning fireplace shall be installed in any residence. Gas stoves and fire places, or EPA Phase II certified wood burning appliances may be installed. (Mitigation Measure 5)

60. All homes shall include energy efficient indoor and outdoor lighting and light colored "cool" roofs. (Mitigation Measure 11)

61. The applicant shall construct the emergency access road pursuant to the design approved in condition of approval number 20. The applicant shall construct a temporary gate, subject to the approval of the Fire and Community Development Departments, at the existing terminus of Picadilly Lane.
PRIOR TO THE CITY ISSUING A CERTIFICATE OF OCCUPANCY FOR ANY HOUSING UNIT

62. Prior to occupancy of the first housing unit, the applicant shall remove the temporary gate on Picadilly Lane and shall install a sign at each end of the emergency access road stating the road is for emergency access purposes and not intended for through traffic.

63. Prior to the City issuing the certificate of occupancy for the twentieth (20th) house, the applicant shall install the trail system within Lot “C”.

64. Prior to the City issuing the certificate of occupancy for the twenty-fifth (25th) house, the applicant shall complete the landscaping improvements on Lots “A” and “B”.

REQUIRED INFORMATION TO BE PROVIDED WITH ANY APPLICATION FOR DEVELOPMENT ON THE REMAINING 111 ACRES

65. The City may process subdivision applications on the remaining 111 acres prior to the year 2016. However, the City will not issue any grading permits or building permits on the remaining 111 acres until after January 1, 2016, in accordance with the Sphere of Influence Plan.

66. Any future development on the remaining 111 acres shall include measures that retain and/or replant native trees along Taylorville Road and the western edge of the property adjacent to Highway 49. The project shall incorporate a minimum 100 foot “No Development Zone” from the Highway 49 right-of-way. (Mitigation Measure 1)

67. Future development on the remaining 111 acres shall occur within the areas identified as potential future building areas so as to avoid and/or minimize impacts on the sensitive habitats as shown on the applicant’s Future Opportunity and Constraints Assessment Map. (Mitigation Measure 6)

68. Future development on the remaining 111-acres shall be consistent with the Estate Residential General Plan land use designation and the RE zoning designation. The base density allows up to 91 primary homes based on the transfer of 20 dwelling units to phase 1.

69. Any proposed development plans on the remaining property (Potential Future Building Areas) shall either: 1) avoid development within the white sediment area, or 2) the applicant shall submit adequate information, as part of a subdivision map, that the soils within the areas of potential development can be safely removed. Prior to issuance of grading permit,
the applicant shall submit a work plan and obtain a permit from the Nevada County Environmental Health Department and/or the Department of Toxic Substance Control for the excavation, transportation, and disposal of the arsenic- and lead-affected soils. The City shall be provided with a copy of the approved permit prior to issuance of grading permits. (Mitigation Measure 13)

70. The applicant shall submit an acoustical analysis for any subdivision map within 600 feet from Highway 49. If the acoustic analysis shows the outdoor activity area within the 60dB or greater, the applicant shall mitigate the impact to a level that is less than 60dB. Specific mitigation measures include, but are not limited to: 1) a redesign or reorientation of the lots (which allows the home to create a barrier between the outdoor area and noise source), 2) the addition of solid fencing or wall, 3) an increased setback, or 4) a redesign of the project to utilize the existing hills and vegetation to reduce the impact to an acceptable level. (Mitigation Measure 14)

71. The applicant shall complete and submit a signal warrant analysis for the McKnight Way/Freeman Lane intersection as part of any application to subdivide the remaining 111 acres. As a result of this analysis, the applicant will be required to comply with one of the following:

a. If the intersection improvement is warranted, the applicant shall install the traffic signal and enter into a reimbursement agreement with the City.

b. If the intersection improvement is not warranted prior to the completion of the future development, the developer will need to enter into an agreement with the City to pay the project's fair share cost of the improvements.

If the intersection improvement is included in the Regional Traffic Mitigation Fee or the local traffic impact fee program, and considered funded, the applicant shall pay the adopted traffic impact fees. (Mitigation Measure 15)