



COUNTY OF LAKE
COMMUNITY DEVELOPMENT DEPARTMENT
Planning Division
Courthouse - 255 N. Forbes Street
Lakeport, California 95453
Telephone 707/263-2221 FAX 707/263-2225

Item 3
9:45 a.m.
December 14, 2017

STAFF REPORT

TO: Planning Commission

FROM: Robert Massarelli, Community Development Director
Prepared by: Keith Gronendyke, Associate Planner

DATE: November 05, 2017

SUBJECT: Deviation, DV 16-01
Supervisory District: 1

ATTACHMENTS:

1. Approved parcel map (PM 15-03)
2. Vicinity map
3. Applicant's deviation request
4. Applicant's East Road Gate Agreement
5. Document: Declaration Creating Roadway Easements
6. Minor Road Standard ADT <400 Diagram
7. Planning Commission Minutes, May 12, 2016
8. Proposed Parcel Map Conditions
9. Existing Parcel Map Conditions

I. PROJECT SUMMARY

The applicant is requesting the granting of a deviation from the requirement of the County of Lake's Subdivision Ordinance to improve an existing road to minor road standards. A Minor Road standard requires the road to be widened to twenty feet wide. East Road is approximately twelve feet wide. Additionally, the applicant is requesting a deviation from the dedication requirement.

II. PROJECT DESCRIPTION

Project Name: Smythe Deviation

Application: Deviation, DV 16-01;

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Applicant/Owner Address: Patrick Smythe, 19697 East Road, Lower Lake CA, 95457.

Location: 19697/19658 East Road, Lower Lake

APN: 012-049-07 and 012-049-10

Parcel Sizes: Approximately thirty and thirty-nine acres respectively

General Plan Designation: Rural Lands

Zoning Designation: "RL" Rural Lands

Flood Zone: D

Slope: Moderate slope to steep

Previous Projects: Smythe Parcel Map PM 15-03 (approved by PC 05/12/2016, but not finalized), Lot Line Adjustment LLA 17-02 (approved by staff 08/01/17 but not recorded).

III. ZONING ORDINANCE: SEC 21-55: APPLICATION

A Deviation application is a written request regarding an approved Tentative Parcel Map project. This project is a request for a deviation from the County of Lake's Subdivision Ordinance's requirement that all land subdivisions meet the following requirements as detailed below: Section 17-25.10, 17-25.1117-21.3(1) and (3), 17-22 and 17-28.1. Specifically, the applicant proposes to deviate from the requirement that he should not be required to offer a fifty-foot wide off tract dedication of land from the intersection of Spruce Grove and East Road and running along properties he does not own and the requirement that the existing East Road be widened to Minor Road standards. The applicant also is proposing to make East Road a private road.

IV. SUBDIVISION REGULATION

The applicant has requested a variance from the following sections of the Lake County Road Design and Construction Standards.

Sec. 17-25. - Roads and Streets.

25.10 Streets or roads in any proposed subdivision shall connect to a state highway, to a maintained county road, or to a public road or right-of-way which meets the standards of this chapter as to design and improvement.

Currently, East Road is connected to Spruce Grove Road to the East, which is the nearest County maintained roadway, although East Road was never offered for dedication to the County, nor is it constructed to minor road standards, both of which are required as part of the subdivision of land in Lake County and detailed further below.

25.11 Streets and other parcels designed and intended for any public use shall be offered for dedication. The County may, at its option, accept or reject any such offer.

The applicant has asked for a deviation from this requirement.

25.12 Provisions shall be made for the continued maintenance of streets and other parcels designed and intended for public use through the establishment of Zones of Benefit within the Countywide County Service Area, Permanent Road Division or other means acceptable to the Department of Public Works.

The applicant has not offered a mechanism to allow for the continued maintenance of East Road should it be declared a private road. Staff Recommends that this condition be deleted.

25.13 Streets intended for the exclusive use of lot owners in the subdivision, their licensees, visitors, tenants and servants, may be shown as *private* streets, provided:

(a) Provision is made for continuing maintenance of said streets;

Applicant has not submitted any documentation for drafting a provision for the ongoing maintenance for East Road. Staff recommends that this condition be deleted.

(b) Said streets are designed and improved according to the standards of this chapter;

Applicant does not agree to improve East Road to the standards required by the Public Works Department's Roads Division.

(c) Intent of *private* use shall be shown by provisions for keeping said streets physically closed to travel by the public at all times, or by adequate posting as a *private* street;

The applicant has offered to install a gate across East Road at a point ninety feet inland from Spruce Grove Road. Also, he states that he has entered into an

agreement with the two property owners to the west of his property so that these two owners can install this gate.

(d) The final map shall contain a conditional offer of dedication which may be accepted by the County at such time as the street shall have ceased to remain physically closed or posted and shall have been open to public travel for a period of not less than three months.

The applicant has not submitted a final map for approval for Parcel Map application (PM 15-03). However, a condition has been included for public dedication of East Road.

Section 17-21 Division of Land (Parcel Maps).

The Planning Commission shall have all the powers and duties given or specified for the Subdivision Committee in this Chapter. The Planning Commission should consider the comments of the following persons or departments prior to taking action: The County Public Works Director or his designated representative; the County Health Officer or his designated representative; the Lake County Fire Chief's Association's representative; the Resource Conservation District's representative; and any other County department or agency the Planning Commission deems necessary.

21.3 Division of land by this Section shall be governed as to design by Articles V and VI and as to improvements by Section 17-28.

(1) Division of land under this Section shall provide a fifty foot minimum width right-of-way easement together with an irrevocable offer of dedication for access over properties outside the land covered by the Parcel Map or waiver, to the nearest public road.

The applicant is not willing or unable to provide an irrevocable offer of dedication for lands to the west of his upon which East Road proceeds from the nearest public road, which is Spruce Grove Road.

(2) Notwithstanding the provisions of Section 17-28, pertaining to road or street improvements, divisions of land under this section shall provide improved streets, roads or rights-of-way from a county or state maintained road to and within the land covered by the Parcel Map or waiver, based on the following guidelines:

(a) Existing roads and their improvements, if any, must be preserved in addition to such work that might be required by this chapter. Should the improvement work cause damage to existing improvements, the existing improvements must be restored to their condition which existed immediately before development. The standards for improvements shall be as follows:

(i) Parcel maps creating parcels, any of which contain less than five (5) gross acres, shall be required to improve new roads to the applicable minor road standard as set forth in the adopted Road Design and Construction Standards. Should the project burden an existing improved road, the existing improved road shall be improved to the applicable minor road standard to the nearest publicly maintained road or highway. Should the existing improved road already meet or exceed the applicable minor road standard, the existing road shall be improved by the application of a chip seal or slurry seal to the nearest publicly maintained road. The chip seal or slurry seal shall not be applied until the existing surfacing has been adequately prepared. Preparation may include patching, crack sealing and/or other preparatory work required by the Director of Public Works.

The tentative parcel map approved three parcels all of which are greater than 5 acres.

(ii) Parcel maps creating parcels, all of which contain a minimum of one hundred (100) gross acres, shall not be required to construct or improve new roads, but shall provide ample dedicated right-of-way or easements that could accommodate a roadway constructed to a minor road standard. Should the project burden an existing improved road, repairs to deteriorated portions of the existing road shall be made as recommended by the Director of Public Works.

Not applicable.

(iii) Where the land development lies in an area of the County where the general plan provides for future, more intensive development, or where street or road patterns are already established, and an increase in traffic anticipated, the Subdivision Committee may require street or road improvement to a higher standard than the applicable parcel size would ordinarily require, so as to meet the anticipated future demands.

Not applicable.

(3) Parcel maps creating four (4) or fewer parcels, all of which contain a minimum of five (5) gross acres, shall be required to improve new roads to a minor road standard (<400 ADT) as set forth in the adopted Road Design and Construction Standards, except that the asphalt surfacing will not be required. Should the project have access to an existing improved road, the existing road shall be required to be improved to a minor road standard (<400 ADT) unless the improvements already meet or exceed the minor road standard (<400 ADT), in which case no additional improvements other than repair of deteriorated portions of the existing road shall be required.

The Public Works Department's Roads Division has indicated that it will require that East Road be improved to Minor Road standards, which requires a twenty-

four foot wide roadway, although this roadway can be paved with a gravel surface as all parcels involved in the parcel map are greater than twenty-acres in size.

Section 17-22. Dedications

22.1 Streets, easements and other parcels intended for public utility or any public use shall be offered for dedication. Such offer, by separate instrument, shall be filed with the tentative map and dedications shall be completed prior to the filing of the final map.

The required dedicated right-of-way width is fifty-feet. The applicant is requesting a deviation from this requirement.

Section 17-28 Improvements

28.1 The Subdivider shall improve all streets, highways, public ways and easements which are a part of the subdivision (except reserved dedications for future street purposes.) The subdivider shall also comply with the "Fire Protection Standards for Lake County" adopted by the Board of Supervisors."

This is one of the deviation requests (see attachment 3). The applicant feels that the existing twelve foot road width is adequate to supply ingress and egress to existing and future property owners along East Road. The Public Works requirement is to improve the existing road to minor road standards as detailed in Section 17-21.3 above, which requires a minimum roadway width of twenty-four Feet. Additionally, as the proposed parcels are within the Cal Fire area for fire suppression, Public Resources Code 4290 requires that all roadways meet its regulations and requirements.

28.8 Improvements to be installed by each subdivider shall be not less than the following:

(a) Water lines, gas (where reasonably available) electric and telephone, and other utility services to serve each lot and stubbed to property line prior to paving.

Not applicable. Proposed lots will be served by private wells and septic systems. Utilities are available from existing infrastructure.

(b) Fire Hydrants of a type and size set out in the "Fire Protection Standards for Lake County," and to the Director of Public Works.

Condition of approval G1 of the parcel map approval requires that the project meet the requirements of California Public Resources Code PRC 4290 and 4291.

(c) Sanitary sewers where required and laterals to serve each lot, and stubbed to property line prior to paving.

Not applicable. Lots would be serviced by private and individual septic systems for sewage disposal.

(d) Storm sewers, drains and channel improvements when necessary for general use of development.

Not applicable.

(e) Silt basins, slope planting and other forms of erosion control when necessary for general use of development.

Not applicable.

(f) Improved streets and roads.

As detailed further in this report, off-site and on-site road improvements along with off-sight dedication of a public right-of-way would be required by the County of Lake's Subdivision Ordinance. Condition D1 of the Parcel Map conditions of approval require that the existing vehicular access, East Road, be improved to a Minor Road Standard, but will not require that paving be implemented given the large proposed parcel sizes. Additionally, a cul-de-sac or other approved turnaround is required to be installed near the intersection of the existing driveway to the current residence of the applicant.

(g) Street signs at all block, number changes and at locations approved by the Director of Public Works.

Condition D2 of the Parcel Map conditions of approval addresses this requirement.

(h) Street end barricades, walls or fencing where required.

This will be addressed by the County of Lake's Public Works Department's Roads Division.

(i) Regulatory and warning signs and traffic safety improvements at locations required by the Director of Public Works.

See 28.8 (h) above.

(j) It shall be the responsibility of the subdivider to make the necessary arrangements with the serving electric utility for the installation of a (underground served) utility owned and operated street light system.

Not applicable.

28.9 The following off-site improvements may be required:

(a) The development of a domestic water supply, including storage facilities or financial contribution for the improvement of any existing source of supply, and the construction of transmission lines from that supply to the proposed development.

Not applicable. Parcels would have individual wells for potable water needs, although, prior to final map approval, a pump test would be required for parcel three to indicate that sufficient potable water is available, as noted in Condition F1 of Parcel Map conditions of approval.

(b) The development of sewage disposal facilities or financial contribution for the improvement of any existing sewage disposal system and the construction of transmission lines from the proposed improvements to the site of disposal. The design and construction of the transmission lines and the sewage disposal system shall be approved by the manager of the Lake County Sanitation District and the Director of Public Works.

Not applicable. All parcels would meet sewage disposal requirements with the installation of individual septic systems, although, prior to final map approval, a site evaluation on parcel three would be required to indicate that a septic system could be installed to dispose of any generated waste water.

(c) When the County has adopted a Drainage Element of a General Plan pursuant to Section 65469 of the Government Code of the State of California, which contains an estimate of the total cost of constructing the drainage facilities required by the plan, the subdivider shall pay the fee set out for constructing planned drainage facilities for the removal of surface and storm waters from local or neighborhood drainage areas.

Not applicable. Drainage facilities are not needed with this parcel map.

(d) Improve access roads.

As noted above in 28.8 (f) the Public Works Department's Roads Division is requiring that the existing access road, East Road be improved to Minor Road standards, which requires a twenty-four foot wide road surface, which can be gravel.

(e) The extension of other utilities.

Not applicable.

Subdivision Regulation Article VIII Exceptions

The applicant is requesting two specific deviations from the County of Lake's Subdivision Ordinance, specifically:

- **A deviation from road standards listed under Section 17-21.(2)(i)(ii)(iii) and (3)**
- **A deviation from the dedication requirements of Section 17-21.3 (1) for access over properties outside the land covered by the Parcel Map.**
- **The applicant also is requesting the granting of East Road as a private road from Spruce Grove Road to the easterly side of APN 012-049-10. This would be per Section 17-25.13 of the County of Lake's Subdivision Ordinance as detailed previously in this staff report.**

Section 17-31 Deviation from Requirements:

31.1 *Deviation based on hardship.* It is realized that there are certain parcels of land of such dimension, subject to such title restrictions, so affected by physical conditions or devoted to such use that it is Impossible for the subdivider to conform to all the forgoing requirements when subdividing property.

There would appear to *not* be any of the above noted hardship reasons to grant a deviation request to the applicant. The applicant's parcel he is attempting to subdivide is already accessed via East Road, which does provide access to his property. The only hardship could be that the applicant is unable or unwilling to discuss the off-site dedication of the portion of East Road that runs from the Spruce Grove Road intersection to his westerly property line with the adjoining property owners.

31.2 The Planning Commission (or on appeal to the Board of Supervisors) may grant deviations from the forgoing requirements when all of the following conditions are found to apply:

(a) That any deviation granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the same vicinity.

Staff feels that a grant of any deviation to the applicant *would* be a grant of special privilege to the applicant, as any other land subdivision in the vicinity would also be subject to all of the provisions of the Subdivision Ordinance of the County of Lake as this land division is.

(b) That because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict literal application of this Chapter is found to deprive subject property of privileges enjoyed by other properties in the vicinity.

As noted above, the subject parcels to be subdivided do not have special circumstances such as, size, shape, topography, location or surroundings or the strict literal application of this chapter to grant a deviation. If this deviation request is approved, staff feels that it *would* grant a special privilege to this applicant.

(c) That under the circumstances of this particular case the deviation, rather than the sections at issue in the Chapter, actually carries out the spirit and intent of this Chapter.

The granting of a deviation would require that the Department of Public Work's County Surveyor and the Roads Division disregard the intent of the Subdivision Ordinance and its improvement requirements and not require the applicant to adhere to the Subdivision Ordinance, which would violate the spirit and intent of the afore mentioned Chapter of the Lake County Code.

31.3 Adequate guarantees shall be provided to insure that any conditions imposed as part of any approved deviation shall be carried out as specified.

Staff suggests that the following condition of approval be added to address the off track dedication requirement: "*Prior to recordation of the final map, an off tract offer of dedication for a public road and public utility easement shall be recorded for the portion of road from Spruce Grove Road to the west boundary of the subject parcel. The portion of roadway though Parcels Two and Three to the East line of Parcel Two shall be offered for dedication as a public roadway and public utility easement on the final map.*"

V. TENTATIVE MAP CONDITION DISCUSSION

The applicant is requesting that following conditions be removed from the Tentative Parcel map conditions:

Condition B.1 of Parcel Map 15-03 is hereby deleted:

~~*Prior to recordation of the final map, the permit holder shall pay a park in lieu (Quimby) fee to the Department of Public Services equivalent to an amount as established by Lake County Subdivision Ordinance Section 17-27A.2.*~~

Staff agrees with this request since Park Fees are not required for Parcels greater than 20 acres in size.

Applicant is requesting that condition C3 be amended to read prior to issuance of a building permit. Staff recommends that it be deleted.

Condition C.3 of Parcel Map 15-03 is hereby deleted:

~~Prior to recordation of the final parcel map, a building envelope shall be established on parcel two that minimizes any impacts to the recorded vernal pool area and on parcel three to address steep slopes and setback requirements for septic systems and wells from single family residences.~~

The Applicant recommends that Condition D4 be removed staff concurs.

Condition D.4 of Parcel Map 15-03 is hereby deleted:

~~The County of Lake will not be accepting East Road into the County maintained roads system so provisions will be required to be made by the Subdivider for continued road maintenance through the establishment of a Zone of Benefit or other means acceptable to the Department of Public Works.~~

The Applicant requests that Conditions C2, C4 and C5 be amended to be prior to issuance of building permit conditions. Staff recommends that Condition C2 remains unchanged and Conditions C4 and C5 be amended as follows:

Condition C.4 and C.5 of Parcel Map 15-03, is hereby combined and amended to read as follows:

Prior to recordation of the final map, a biological assessment **and wetland delineation** shall be conducted by a biologist to assess the vernal pool area and to determine if mitigations are required to protect any listed endangered or threatened species located in the vernal pool vicinity. **The final map shall include a note(s) listing all** mitigation measures recommended by the biologist.

The Applicant requests that Condition D1 be deleted. Staff recommends that the condition remain in effect and it be slightly amended to clarify the timing of the condition:

Prior to final map recordation, East Road will be improved to a Minor Road Standard, except it will not be required to be a paved surface since each parcel will be larger than five acres. A cul-de-sac or other approved turnaround shall be

provided near the intersection of the driveway to the existing residence on parcel one.

Additionally, staff recommends that Condition D.4 of Parcel Map 15-03 is hereby replaced with:

Prior to recordation of the final map, an off tract offer of dedication for a public road and public utility easement shall be recorded for the portion of road from Spruce Grove Road to the west boundary of the subject parcel. The portion of roadway though Parcels Two and Three to the East line of Parcel Two shall be offered for dedication as a public roadway and public utility easement on the final map.

In the applicant's discussion of his deviation request for not being required to complete the road improvements, the applicant states that since he does not own the properties from the Spruce Grove Road intersection to his westerly property line, he cannot improve this section of East Road to Minor Road Standards and the property owners along this stretch or roadway do not want these improvements to be instituted. The applicant also feels that the existing twelve foot width of gravel road base is adequate to serve any future needs of vehicles on the newly created parcels and that having to increase the roadway width to twenty-four feet is excessive and unwarranted.

While not clearly stated in the applicant's deviation request, it is apparent that the applicant also does not want to comply with the requirement of the off tract offer of dedication of a fifty foot wide right-of-way to establish a public road access as required by the County of Lake's Subdivision Ordinance and detailed in this staff report.

Also, the applicant also is requesting that East Road be designated a private road, but this would require additional information to be submitted by the applicant.

VI. GENERAL PLAN

Policy T-1.2 Compliance with County Road Standards of the County of Lake's General Plan states in part:

"Roads should be improved and constructed to the design standards recommended by the County Department of Public Works, as shown in Table 6-1, Lake County Road Design and Construction Standards..."

The minimum road standards the applicant would have to comply with are a dedicated fifty foot right-of-way, two twelve-foot wide travel lanes with a gravel surface. The applicant is asking for the grant of a deviation from these requirements, which is contrary to what the County of Lake's General Plan recommends as noted in Policy T-1.2.

Policy T-1.7 Impact of New Development on Roadways states:

"Facilities constructed or utilized for new development shall comply with County standards in order to minimize initial and subsequent maintenance costs."

The applicant has asked for a deviation to improving the existing roadway to County road standards. This would be contrary to what Policy T-1.7 of the County of Lake's General Plan endorses.

VII. AREA PLAN

Objective 5.2a of the Lower Lake Area Plan states: *"Adequate public access for motor vehicles, bicycles, pedestrians and to public waterways shall be encouraged for the orderly growth and development of the Lower Lake area."* The widening of the existing roadway to minor road standards would support Objective 5.2a of the Lower Lake Area Plan.

VIII. RECOMMENDATION

Staff recommends the Planning Commission take the following actions:

- A. Find the previously approved negative declaration (IS 15-12) meets the requirements of Section 15162(a) of the State CEQA Guidelines, and that no additional environmental review need be prepared, with the following findings:
 - 1. There has been no change in the project which would create new significant environmental impacts.
 - 2. There has been no substantial change in circumstances resulting in new significant environmental impacts.
- B. Approve DV 16-01 for Parcel Map 15-03 as modified by staff with the following findings:
 - 1. This deviation will not result in the grant of a special privilege inconsistent with the limitations on other properties in the vicinity.

2. There are no traffic safety impacts associated with this deviation request.
3. This project will not result in any significant adverse environmental impacts.

Sample Motion:

Subsequent Negative Declaration

I move that the Negative Declaration which was previously prepared for Parcel Map PM 15-03 does meet the requirements of Section 15162(a) of the CEQA Guidelines, and that no additional environmental review need be prepared with the findings listed in the staff report dated November 5, 2017.

Deviation Approval

I move that the deviation applied for by Patrick Smythe, and as modified, on property located at 19697 and 19658 East Road, Lower Lake does meet the requirements of Section 17-31 of the Lake County Subdivision Ordinance and therefore the deviation is approved as modified by staff subject to the conditions in Attachment 8 and with the findings listed in the staff report dated November 5, 2017.

NOTE: *The applicant or any interested person is reminded that the Subdivision Ordinance provides for a fifteen (15) calendar day appeal period. If there is a disagreement with the Planning Commission, an appeal to the Board of Supervisors may be filed. The appropriate forms and applicable fee must be submitted prior to 5:00 p.m. on or before the fifteenth calendar day following the Commission's final determination.*

Reviewed By:

A handwritten signature in dark ink, appearing to be 'MS' followed by a horizontal line.



Attachment Two

RECEIVED

Request for a Deviation from Road Requirement Section in the Approved Parcel

AUG 11 2016
LAKE COUNTY COMMUNITY
DEVELOPMENT DEPT.

Map # 15-03

We are requesting a deviation from the minor road standard requirement in the condition section of the approved parcel map 15-03. We will site our reasons below.

History:

We applied for a parcel map in March of 2015. After some revisions to the tentative parcel map, inspections by environmental health and a site inspection by an archeologist, we submitted all of our documents in October of 2015. After many delays and promises we finally had our application heard in front of the planning commission on May 12, 2016.

At the meeting public works submitted an addendum to the package asking for a public road to be created out of the existing private East Road. We opposed this action stating that there was no reason that the public be allowed on our road and that only the home owners and their guests had a right and a reason to be there. After much discussion and input from the county surveyor the addendum was removed from the application package and the parcel map was approved as submitted. The planning commission agreed that there was no reason to make East Road a public road.

After a few weeks we had not received any final package information from the county. We went to the county to inquire on the status of our project. Were told that there was an issue with the road. We met with the county surveyor, he stated that there may be some legal issues with making the road private and that he would get back to me within the week. We inquired as to which documents our project had to adhere too. He stated it was the Lake County Subdivision Act.

Upon researching the document we found that there was sufficient language in the document that would allow the Planning Commission to establish East Road as private. We also uncovered some major flaws in the conditions of the parcel map.

On June 20, 2016 we brought a detailed summery of the issues we had to the planning department for review. After 14 days we had no response to our letter so we made another trip to the planning department. At that time we met again with the county surveyor and another county official. At that time they said that they still wanted East Road to be made public and that they would fight any attempts to keep it private. We explained that there was ample language in the subdivision act to make the road private and that the Planning Commission had the power to do so. We also stated that we do not own the first part of East Road as it traverses through two of our neighbor's properties and we do not have ANY legal rights to make changes to that section of road. Needlessly to say the rest of the meeting did not go well.

We asked the planning department for the forms to request a deviation and what additional information that would be needed. The planner asked if we could have the adjoining properties drawn in on the tentative parcel map along with the existing road through those parcels. We have done so.

Deviation Request:

We are requesting three road deviations from the approved parcel map 15-03. We believe one (establishing a private road) has already been addressed and approved but will formally request this again.

As we stated above, most of our issues with the road improvements lies in the fact that we do not own the first section of East Road. We are legally not able to make improvements or alterations to this section of the road. Our neighbors DO NOT want to widen the road or otherwise improve it any further than we have (the road was just resurfaced).

We have entered into an agreement with the two parcel owners at the beginning of East Road to construct a gate access the road at a point approximately 90' from the pavement of Spruce Grove Road. We believe they have the right to gate the road as long as we have access and we support this improvement. The length of road from the new gate to the beginning of our properties is 912'. You can clearly see either end of the road from the opposite end. At the most, we are adding two additional dwellings to the existing approved road. We can see no valid reason why this road needs to be widened in this location.

The current width on East road through the first two parcels is 12' wide, 17' to the drainage ditch and 23' wide from fence line to fence line. East road on our parcel (012-049-07 is also 12' wide with 10' shoulders. The surface is gravel on both roads.

Establishment of a private road:

As stated in section 17-21 – Division of Land (parcel map) 21.1 states "The planning Commission shall have all the powers and duties given or specified for the Subdivision Committee in this chapter. ..."

Nowhere in subsection (3) that governs roads in parcel maps, does it state that roads must be dedicated for public use.

Section 25.13 states " Streets intended for the exclusive use of lot owners in the subdivision, their licensees, visitors, tenants and servants, may be shown as private streets, provided:

- (a) Provision is made for continuing maintenance of said streets;
- (b) Said streets are designed and improved according to the standards of this chapter;
- (c) Intent of private use shall be shown by provisions for keeping said streets physically closed to public travel at all times, or by adequate posting as a private street;

- (d) The final map shall contain a conditional offer of dedication which may be accepted by the County at such time as the street shall have ceased to remain physically closed or posted and shall have been open to public for a period of not less than three months travel.

We believe we have met all of the above standards and East Road should remain private.

Requested deviation from road standards:

As previously stated above, we do not own the beginning section of East Road. We cannot legally make any improvements or alterations without the consent of the owners of those properties.

In the 5-19-1967 original easement, it clearly states on line 4 "...and once located said location is defined and limits the easement."

This seems to imply that once the road location and width are set they are defined and permanent.

As for improving East Road through our parcels, we see no benefit to the county or ourselves to widening our existing road that has served our neighbor for almost 50 years without incident. If we widen our portion of the road but cannot widen the first section of the road it will serve no purpose. We are willing to install pull outs and turn arounds to alleviate any public safety concerns. We would also be willing to resurface the road in the area of lot # 3 a condition of applying for a building permit. As stated in our June 19, 2016 letter to the county, the driveway to parcel #1 is 120' from our property line. The county requested a turnaround at this location. We are not opposing that request.

To further illustrate our point, Spruce grove road is only 20 wide and handles hundreds of cars daily where our road is 12' wide and handles maybe 10 cars a day. We have never had an incident where two cars couldn't use the roads at the same time

The Planning Commission has the power to grant such deviations under the following sections:

Section 31.1 "Deviation based on hardship. It is realized that there are certain parcels of land of such dimension, subject to such title restrictions, so affected by physical conditions or devoted to such use that it is impossible for the subdivider to conform to all the forgoing requirements when subdividing property."

Sections 31.2 gives guidance on this section.

Section 26.6 , subsection(d) States:

"The Planning Commission or the Board of Supervisors or the Director of Public Works may grant a variation from the required widening provided they find that physical conditions make it impractical to construct said widening.

Section (e) furthers states: "The Planning Commission (or on appeal the Board of Supervisors) may grant a deferral from the widening requirement by this section on properties designated as Rural Residential, Rural Lands, Agriculture Resource Conservation in the Land Use Element of the Lake County General Plan when said widening is not currently needed for health and safety purposes or for the orderly development of the surrounding area. ..."

The section continues to define the parameters of this section.

We believe that our situation fits the forgoing sections and that it would not be a grant of special interest to grant our request for the road deviations. We are just as concerned for our safety and the public's safety as is the County, probably more so! We cannot see any public benefit to the road requirements or to burden us with additional cost that benefit no one.

We request a deviation from the < 400 Minor Road standard be granted to keep the width of East Road as it now exists.

WE have other issues with the conditions of the approved parcel map. These are outlined in our letter to the county dated June 19, 2016. We will address these issues along with the road deviation request.

In summary, we have done everything asked of us to date. We believe that this issue could have been solved by the parties if the County had been willing to find a workable solution. Since the County is unwilling to try and find a workable solution for both parties we find it necessary to respond in this fashion.

We look forward to presenting our case in front of the Planning Commission.

Regard's,

Pat Smythe

Co-property owner.

Attachments; updated tentative parcel map, list of issues with conditions for final map dated 6-19,2016, pictures of east road, original easement document, draft of East Road Gate Agreement.

East Road Gate Agreement

The following property owners that have easement rights to use East Road in Lower Lake Ca. have agreed to jointly construct a gate at the entrance to East Road off of Spruce Grove Road. East Road runs through parcels 012-049-04 and 012-049-05 jointly off Spruce Grove Road and then enters parcel 012-049-07 and runs to the North East corner of that parcel where it turns to the south and runs entirely on parcel 012-049-11 to parcel 012-052-02.

The owners of parcels 012-049-04 and 012-049-05 have the right to construct the gate on their properties. The owners off parcels 012-049-07 and 012-049-10 have all agreed to jointly share the expense and construction of the gate. The owner of parcel 012-049-11 has opted not to participate in the cost or construction of the gate but will be supplied with remote controls, access codes and full easement rights as granted in the 5-19-1967 easement document.

The above participants have also voted to improve the road surface through parcels 012-049-04 and 012-049-05.

As part of this agreement it is understood that it is the wishes of the property owners to have the entrance gate remain on East Road in the event of one or more of the properties is sold or divided. The following conditions, covenants and rules are agreed upon by the signing property owners.

1. This gate agreement will remain in effect unless a 2/3 majority of the property owners vote to remove the gate. Notwithstanding, the owners of parcels 012-049-04 and 012-49-05 will always have the joint right to gate the road as long as easement rights are upheld.
2. This agreement will be recorded and be binding on each of the property owner's deeds.
3. Each property owner, their heirs, their estate, subsequent owners or in the event of a division of land, the newly created parcel is hereby bound by this agreement.
4. Each property owner will have the right to have their own access codes to the property.
5. Nothing in this agreement will override the rights granted in the original road easement document.
6. Maintenance for the gate will be done jointly by the signing owners. The owners of parcels 012-049-07 and 012-049-10 have agreed to maintain for the gate for the foreseeable future. No compensation is awarded to the lead maintenance owner(s) as part of this agreement. This is not a binding agreement for the owners of parcels 012-49-07 and 012-049-10. The Repair costs will be equally split between the parcel owners.
7. The owners of parcels 012-049-05 and 012-049-04 will be responsible for making sure that the gate is operating normally at all times. If the gate fails to function, the gate will be held open until repairs can be made. All current property owners will be notified and

8.

repairs will be discussed and agreed upon before any repairs in excess of \$500.00 are made.

8. Future road improvements can be made as part of this agreement with a majority vote of the owners of the parcels accessed by East Road. Only the owners who vote to improve the road will have to bear the cost burden of such improvements. This in no way will alter the area of the road easement as it exists at the time of this document signing.

We the following parcel owners hereby approve and agree to the terms and conditions of the East Road Gate Agreement.

Parcel 012-048-04:

Matthew Uribe

Dated _____

Parcel 012-049-05:

Jessica and Marty Harris

Dated _____

Parcels 012-049-07 and 012-049-10:

Patrick Smythe

Dated _____

Cody Smith

Dated _____

1967-5-19
After recording return to:
LEISURE PROPERTIES, INC.
111 Broadway
Oakland, Calif.

DECLARATION CREATING ROADWAY EASEMENTS

WHEREAS, Leisure Properties, Inc., a California corporation, being the owner of all of that certain real property situated in the County of Lake, State of California, more particularly described in Exhibit "A" attached hereto and made part hereof, hereby declares the hereinafter described easements to be created to benefit and to burden said property as hereinafter cited:

1. Said real property shall hereinafter be transferred by said Leisure Properties, Inc. in parcels of not less than 40 acres, according to the plan of division set forth in the Surveyor's Map attached hereto, marked Exhibit "B".
2. The solid line set forth in said map marked Exhibit "B" represents the location in general of existing roadways or roadways to be created hereinafter by the undersigned.
3. Each Grantee and his successors in interest hereby agrees for himself, his heirs, assigns and estate to permit the undersigned and/or its agents to improve said proposed easements by rough grading, and installation of gravel and drain-age facilities. This is intended to be permissive, and does not bind the undersigned to make said improvements.
4. This reservation of easement is intended to be a floating easement, that is, the undersigned shall be permitted to locate future roadways, improved as aforesaid in the general area designated in the map marked Exhibit "B", and once located said location is defined and limits the easement.
5. The easement shall be 60 feet in width, and shall be for the purpose of ingress and egress of all owners of any part of the real property above described, and their successors in interest, and their invitees.
6. The right to locate the easement by the undersigned, except with the subsequent consent of the vested owners of the property affected shall expire three (3) years from date.
7. The easement shall be located by the undersigned in the general area indicated by the solid line in the map attached, marked Exhibit "B", however, it is understood that the actual location may vary from said designated roadway.

LEISURE PROPERTIES, INC.,
a California corporation

Robert J. Decca
Robert J. Decca, President 4962

RECORDED
MAY 23 5 31 PM '67
COUNTY TITLE
920
DB

Attachment Five

- Sec. 17-26. - Specific Street Design.

26.1 Street design shall conform to the Road Design and Construction Standards approved by the Board of Supervisors and on file in the office of the Department of Public Works and to the requirements set forth in the following article.
(Ord. No. 664, § 7.22, 1971; Ord. No. 791, § 1, 3-19-74; Ord. No. 2730, § 4, 4-26-2005)

26.2 Minimum right-of-way width for the streets and roads required by this chapter shall be as follows:
(Ord. No. 664, § 7.23, 1971)

(a) Arterial Street	60 feet
(b) Collector Street	50 feet
(c) Cul-de-sac & Minor Street	50 feet
(d) Alley, in residential areas	20 feet
(e) Street classification shall be based upon traffic projections for full development of the Subdivisions and surrounding development and contributing areas as well as the Circulation Plan.	

LAKE COUNTY PLANNING COMMISSION

MINUTES

REGULAR MEETING

May 12, 2016

Commission Members

P Joseph Sullivan, District I
P Bob Malley, District II
P Gladys Rosehill, District III
A Don Deuchar, District IV
P Gil Schoux, District V

Staff Members

P Scott DeLeon, Interim CDD Director
P Audrey Knight, Principal Planner
P Shanda Harry, Deputy County Counsel
P Danae Bowen, Office Assistant III

9:03 a.m. CALL TO ORDER

Pledge of Allegiance was led by Joe Sullivan.

9:04 a.m. CITIZEN'S INPUT – None

9:05 a.m. Public Hearing on consideration of a mitigated negative declaration based on Initial Study (IS 15-12) for Parcel Map (PM 15-03). The project applicants are CODY SMITH & PATRICK SMYTHE proposing to merge and resubdivide two lots comprising approximately seventy-eight acres into three parcels of: 24.42 acres, 30.73 acres net and 21.24 acres net. The project is located at 19658 and 19697 East Road, Lower Lake and further described as APNs 012-049-07 and 012-049-10. (Keith Gronendyke)

Comm. Sullivan recused himself from this item, because the company he works for did the parcel map.

Keith Gronendyke, Associate Planner, provided background information and a power point presentation on the project application.

Gordon Haggitt, Lake County Surveyor, explained that the proposed new condition D5 is part of the County subdivision Ordinance, whereby you are required to have public access from a County maintained public road to the subject parcel, which would bring this into compliance with the Subdivision Ordinance. Mr. Haggitt also indicated that the second part of the condition was to request that the Commission extend the public dedication through the subject parcel to its easterly boundary, but this is not an absolute requirement for this minor land division, but it is something, if the Commission finds it necessary to provide public access to the adjoining parcels to the east if they ever are further subdivided. He also added, in light of the fires from the summer of 2015, different routes of access, in and out of remote areas, would be vital for egress purposes.

Comm. Malley pointed out to Mr. Haggitt, that the Tentative Parcel Map shows that the east road continues out into the other side of parcel number two, but there is no connection, other than a driveway between Spruce Grove and East Road to parcel number one.

Mr. Haggitt said he understands the concerns associated with a public road going through the interior of the subject property, but said it is something to consider as a condition of approval, if there is going to be any future development to the east.

Attachment Seven

9:14 a.m. Opened Public Hearing

Pat Smythe, property owner, said his only issue was making the existing encroachment a public access road. He said his family does not have any problems with easements for fire access or utilities, but he sees no reason to require that road be opened to public access.

Audrey Knight, Principal Planner, asked Mr. Smythe if the maintenance of this road was through a shared agreement and if the new parcels were going to be sold independently, how the road will be maintained.

Mr. Smythe said he and the two property owners to the west and fronting along Spruce Grove Road have improved the first part of East Road and that he would take care of the road easement from his property line and maintain it.

Mr. Gronendyke said condition D4 states: *"The County of Lake will not be accepting East Road into the County maintained roads system so provisions will be required to be made by the subdivider for continued road maintenance through the establishment of a Zone of Benefit or other means acceptable to the Department of Public Works"*. He said this is the mechanism to have the road maintained to certain standards.

Comm. Malley said that the applicant was opposed to making this a public access road, and asked if this has been worked out with staff.

Ms. Knight said that one issue is that the Subdivision Map Act requires, with access to private land from a public road. She further explained that the road would be serving as a private drive and according to Public Resources Code 4290, requires that the driveway meets 4290 standards and regulations. In regards to width clearances, pullovers/turnarounds for vehicular safety reasons, which are noted in G1 of the parcel map conditions of approval. Staff requires an agreement with the adjoining property owners, that serves a public purpose implementing Public Resources Code 4290, in case of an emergency. She noted that the possibility of rendering the applicant's parcel land locked is the issue, and all associated property owners need to be in agreement with this to continue as a private access easement.

Comm. Malley asked if the neighbors were noticed of this hearing today. He said he was more concerned with access to proposed parcel number one, than with parcels two and three. Comm. Malley said the existing easement is a narrow road that could create issues for fire vehicles coming in at the same time as private vehicles are trying to evacuate during a fire. He asked what the width of the dedicated easement currently is.

Mr. Smythe said that the easement description called for a sixty-foot wide easement and currently it is forty-feet in width. He said he is not opposed to a written agreement for road maintenance up to where the road stops at the eastern side of proposed parcel three. He said parcel one and parcel two already has an established easement through the original subdivision agreement.

Mr. Gronendyke said that there is a requirement that any required turnaround be constructed at the intersection of the driveway to the existing residence on parcel one.

9:25 a.m. Closed Public Hearing

Comm. Rosehill asked staff what the ordinance rules are that are trying to be implemented as far as making the easement a public road.

Ms. Knight explained that the language in the Subdivision Map Act says that prior to recordation of a final parcel map, an offer of dedication of public road and public utility easement shall be recorded for access through properties outside the land covered by the parcel map. She said what the Subdivision Map Act is trying to establish is a public right-of-way for inland property owners. Ms. Knight said an easement works from an understanding of private shared access, and public road is a shared County right-of-way, as opposed to an easement that might be granted between property owners for private

access. Ms. Knight also said whenever a subdivision of land occurs, the local jurisdictions want to make sure that there is public access so that property owners can access their property, without having a deeded easement in place. She said the idea behind it is essentially sound to make sure that all parcels can be equally accessed when they are subdivided. She added that it is common for rural counties to operate through private easements rather than public right-of-ways, but it relies on good neighbor relationships.

Comm. Rosehill said there is a heavy burden here on one property owner, who happens to have a road on their property that provides access to surrounding property owners and could also provide access to any emergency vehicles during a wildfire.

Ms. Knight said there also is an issue when semi-truck traffic associated with the winery business travels on the existing roadway. Truck traffic could cause negative impacts to the roadway and irritate neighbors whose property they drive through. East Road has historically been maintained jointly between the owners of all the properties.

Comm. Malley asked if that the applicant has read section D1 in the parcel map conditions, which reads: *"East Road being improved to a Minor Road Standard, except it will not be required to be a paved surface since each parcel will be larger than five acres. A cul-de-sac or other approved turnaround shall be provided near the intersection of the driveway to the existing residence on parcel one"*. He also pointed out in section G1 on Wildfire Safety: *"All requirements of the State of California's Public Resources Codes PRC 4290 and 4291 shall be met during road construction, driveway construction, the installation of any gates or before the issuance of a building permit."* Comm. Malley asked the applicant if he was aware of these conditions.

Mr. Smythe said that he was aware of Condition G1 and he is in agreement with it and has no issues with the conditions.

Comm. Malley asked what the Surveyor was proposing.

Ms. Knight said Mr. Haggitt was quoting what the Subdivision Map Act states, and he is requesting a public dedication, but not a publicly maintained road. She said there are many of these in the County that are publically dedicated, but not publically maintained. Ms. Knight also stated that Mr. Haggitt is requesting this, because of the potential of further development to the east and to resolve any future disputes before they have a chance to arise.

Comm. Malley said as far as he is concerned, no changes need to be made to the conditions of approval.

Ms. Knight noted that the conditions provided in the staff report, do not at this time reflect the recommendation by the County Surveyor.

Comm. Schoux moved, 2nd by Comm. Rosehill that the Planning Commission find that on the basis of the Initial Study (IS 15-12) prepared by the Planning Division, the parcel map as applied for by Cody Smith and Patrick Smyth and the mitigation measures which have been added to the project, will not have a significant effect on the environment, and therefore, a mitigated negative declaration shall be issued with the findings listed in the staff report dated April 26, 2016.

MITIGATED NEGATIVE DECLARATION 3 Ayes 0 Noes (1) absent (Deuchar) (1) recused (Sullivan)

Comm. Schoux moved, 2nd by Comm. Rosehill that the Planning Commission find that the tentative map applied for by Cody Smith and Patrick Smythe on property located at 19657 and 19658 Ease Road, Lower Lake, is in conformity with the provisions of the Subdivision Map Act and Chapter 17 of the Lake County Code and, upon that basis, approve said map subject to the conditions and with the findings listed in the staff report dated April 26, 2016.

TENTATIVE PARCEL MAP APPROVAL 3 Ayes 0 Noes (1) absent (Deuchar) (1) recused (Sullivan)

Comm. Malley noted that there is a fifteen (15) calendar day appeal period provided by the Lake County Subdivision Ordinance.

9:38 a.m. Public Hearing on General Plan Conformity Report (GPC 16-03). The project applicant is the LAKE COUNTY PUBLIC WORKS DEPARTMENT proposing the acquisition of approximately 645 square feet from APN 035-163-26 to support the construction of sidewalks, bike lanes, street lighting, and other safety improvements to the pedestrian and bicycle facilities along Foothill Blvd. and State Highway 20 through Clearlake Oaks. The project site is located in the State Highway 20 and Foothill Blvd. right-of-way in Clearlake Oaks in the vicinity of various APNs. (Peggy Barthel)

Peggy Barthel, Resource Planner, provided background information on the project application.

Eric Seely, Lake County Department of Public Works Right-of-Way Agent, said the need for this acquisition is to realign an access road that services the south side of the parcels on the north side of the road. He said it is a single lane paved access road, that currently just merges on to Highway 20, and better design practices would be to have that driveway not just merge on at an acute angle and reroute it so it would go on to Oak Grove Street. He said then that access road would swing over to a 45 degree angle and come in on to Oak Grove, which would provide a safer means of egress on to the public roadways, opposed to the angle where you have to turn on to Highway 20, looking back over your shoulder at almost 180 degrees.

Comm. Malley asked Mr. Seely if they would have to relocate the power poles and hydrant.

Mr. Seely said he was not certain about the fire hydrant, but most likely the utility poles will be relocated a few feet one way or the other to accommodate the sidewalk improvements.

Comm. Malley asked if the acquisition would pay the property owner for the property.

Mr. Seely said yes, they would negotiate with the property owner.

There was further discussion on the realignment with reference to; parking issues, driveway access, setbacks, widths, guard rail system, streetlights, sidewalks and emergency use.

Mr. Seely noted that the start date would be in 2017 and there are milestones to be met before going out to bid. He said the project is sponsored by Lake County and the funding is State and Federal Safe Routes to Schools, Community Development Block Grant Funds and local County match.

10:03 a.m. Opened Public Hearing

No one present wished to speak.

10:03 a.m. Closed Public Hearing

Comm. Malley moved, 2nd by Comm. Schoux that the Planning Commission report that the acquisition of approximately 645 square feet from APN 035-162-26 adjacent to Oak Grove Avenue as proposed by the Lake County Department of Public Works is in conformity with the Lake County General Plan with the findings listed in the Staff Report dated May 4, 2016.

GENERAL PLAN CONFORMITY 4 Ayes 0 Noes 1 absent (Comm. Deuchar)

COUNTY OF LAKE

DEVIATION DV 16-01 TO
PARCEL MAP 15-03

Patrick Smythe

Pursuant to the approval of the Lake County Planning Commission on **December 14, 2017**, there is hereby granted to **Patrick Smythe**, a deviation **DV 16-01** to parcel map **PM 15-03**, to allow **a deviation from the Subdivision Regulations and modification of tentative map conditions**, located at **19658 and 19697 East Road, Lower Lake**, being **AP 012-049-07 and 012-049-10**, subject to the following conditions:

Condition B.1 of Parcel Map 15-03 is hereby deleted:

~~Prior to recordation of the final map, the permit holder shall pay a park in lieu (Quimby) fee to the Department of Public Services equivalent to an amount as established by Lake County Subdivision Ordinance Section 17-27A.2.~~

Condition C.3 of Parcel Map 15-03 is hereby deleted:

~~Prior to recordation of the final parcel map, a building envelope shall be established on parcel two that minimizes any impacts to the recorded vernal pool area and on parcel three to address steep slopes and setback requirements for septic systems and wells from single family residences.~~

Condition C.4 and C.5 of Parcel Map 15-03, is hereby combined and amended to read as follows:

Prior to recordation of the final map, a biological assessment **and wetland delineation** shall be conducted by a biologist to assess the vernal pool area and to determine if mitigations are required to protect any listed endangered or threatened species located in the vernal pool vicinity. **The final map shall include a note(s) listing all** mitigation measures recommended by the biologist.

Condition D.1 of Parcel Map 15-03, is hereby amended to read as follows:

Prior to final map recordation, East Road will be improved to a Minor Road Standard, except it will not be required to be a paved surface since each parcel will be larger than five acres. A cul-de-sac or other approved turnaround shall be provided near the intersection of the driveway to the existing residence on parcel one.

Condition D.4 of Parcel Map 15-03 is hereby deleted:

~~The County of Lake will not be accepting East Road into the County maintained roads system so provisions will be required to be made by the subdivider for continued road maintenance through the establishment of a Zone of Benefit or other means acceptable to the Department of Public Works.~~

Condition D.4 of Parcel Map 15-03 is hereby replaced with:

Prior to recordation of the final map, an off tract offer of dedication for a public road and public utility easement shall be recorded for the portion of road from Spruce Grove Road to the west boundary of the subject parcel. The portion of roadway though Parcels Two and Three to the East line of Parcel Two shall be offered for dedication as a public roadway and public utility easement on the final map.

All other applicable requirements of PM 15-03 shall remain in effect as previously approved.

the west boundary of the subject parcel. The portion of roadway through Parcels Two and Three to the East line of Parcel Two shall be offered for dedication as a public roadway and public utility easement on the final map.

E. Air Quality

1. Vegetative waste from property development should be composted or chipped as a means of disposal.
2. A District burn permit is required for all open burning and only clean dry vegetation that was grown on the property may be burned.

F. Environmental Health

1. Prior to final map approval, adequate water quantity must be demonstrated on parcel three. Demonstration may include, but may not be limited to (GPM) gallons per minute for a four hour testing period and the recovery rate established in a 30 minute period if public water service is unavailable. The 4 hour pump test must be overseen by the Environmental Health Division.
2. Prior to the approval of the final map, the subdivider shall apply for a site evaluation on parcel three to determine if on-site wastewater disposal is possible.

G. Wildfire Safety

1. All requirements of the State of California's Public Resources Codes-PRC 4290 and 4291 shall be met during road construction, driveway construction, the installation of any gates or before the issuance of any building permit.

H. Timing and Expiration

1. This approved map shall expire on May 12, 2018, unless an extension has been granted consistent with the Subdivision Ordinance and the Subdivision Map Act.
2. The permit holder shall permit the County of Lake or representative(s) or designee(s) to make periodic inspections at any reasonable time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.

**COMMUNITY DEVELOPMENT DIRECTOR
ROBERT MASSARELLI**

Prepared by: KG

By: _____
Danae Bowen, Office Assistant III

ACCEPTANCE

I have read and understand the foregoing parcel map conditions and agree to each and every term and condition thereof.

Date: _____

Applicant or Authorized Agent Signature

Print Name

**COUNTY OF LAKE
PATRICK SMYTHE
PARCEL MAP 15-03 AND DEVIATION DV 16-01**

EXPIRES May 12, 2018

Pursuant to the approval of the Lake County Planning Commission on May 12, 2016, there is hereby granted to **Patrick Smythe, P O Box 1007, Middletown CA, 95461**, approval of a **Parcel Map** to allow the subdivision of two existing seventy seven acre lots into three parcels, **Parcel One** being 24.42 acres, **Parcel Two** being 30.73 acres net and **Parcel three** being 21.24 acres net and a **Deviation from Road Improvements** on property located at **19658 and 19697 East Road** in **Lower Lake** being **Assessor Parcel No 012-049-07 and 012-049-10** subject to the following conditions:

A. General

1. The final parcel map shall be in substantial conformance with the tentative map submitted to the Community Development Department and approved by the County Surveyor on October 28, 2015. The configuration of the final parcel map may include minor amendments, provided that the proposed parcels comply with the Zoning ordinance and General Plan, and the modification does not result in any increased environmental impact. Any modification shall be subject to approval by the Community Development Director and the Department of Public Works.
2. Prior to recordation of the final parcel map, all parcel corners and angle points shall be monumented, subject to the approval of the County Surveyor.
3. All existing easements shall be shown on the final parcel map.
4. A parcel map shall not be recorded if development has occurred on the property that would be inconsistent with the Zoning Ordinance or other applicable code should the map be recorded.
5. Prior to recording the final map, all current and supplemental taxes shall be paid.

C. Biological & Cultural Resources

1. This tentative map approval shall not become effective, operative, vested or final until the California Department of Fish and Game filing fee required or authorized by Section 711.4 of the Fish and Game Code is submitted by the property owner to the Community Development Department. Said fee shall be paid within 30 days of approval. Failure to pay said fee by the specified deadline shall result in this tentative map automatically becoming null and void.
2. Should archaeological materials be discovered during future development, all activity shall be temporarily halted in the vicinity of the find and a qualified archaeologist be retained to evaluate the find and recommend mitigation procedures.
3. Prior to recordation of the final map, a biological assessment and wetland delineation shall be conducted by a biologist to assess the vernal pool area and to determine if mitigations are required to protect any listed endangered or threatened species located in the vernal pool vicinity. The final map shall include a note(s) listing all mitigation measures recommended by the biologist.

D. Roads

1. Prior to recordation of Final Map, East Road will be improved to a Minor Road Standard, commencing at Spruce Grove Road, except it will not be required to be a paved surface since each parcel will be larger than five acres. A cul-de-sac or other approved turnaround shall be provided near the intersection of the driveway to the existing residence on parcel one.
2. A street sign that meets the Lake County Road Design and Construction Standards shall be installed at the East Road/Spruce Grove Road intersection.
3. The subdivider shall submit a Cost Estimate and Improvement Plans prepared by a Registered Civil Engineer for all roadway improvements. A signed Engineering/Inspection Agreement with a stipulated deposit of two percent of the Engineer's Cost Estimate shall be submitted prior to plan review.
4. Prior to recordation of the final map, an off tract offer of dedication for a public road and public utility easement shall be recorded for the portion of road from Spruce Grove Road to

ROBERT MASSARELLI,
COMMUNITY DEVELOPMENT DEPARTMENT

Prepared By: KG

By: _____
Danae Bowen, Office Assistant III

ACCEPTANCE

I have read and understand the foregoing Minor Modification to Use Permit and agree to each and every term and condition thereof.

Date: _____

Applicant or Authorized Agent