



**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 1  
9:05 a.m.  
May 12, 2016

## STAFF REPORT

**TO:** Planning Commission

**FROM:** Scott DeLeon, Interim Community Development Director  
Prepared by: Keith Gronendyke, Associate Planner *KG*

**DATE:** April 26, 2016

**SUBJECT:** Smythe Parcel Map; PM 15-02, IS 15-12; Supervisorial District 1

**ATTACHMENTS:**

1. Agency Comments
2. Vicinity Map
3. Proposed Tentative Map Conditions
4. Proposed Tentative Parcel Map
5. Initial Study; IS 15-12

### I. SUMMARY

The applicant is requesting approval of a tentative parcel map for the subdivision of approximately eighty acres into three lots one 21.42 acres in size, two 30.73 acres net and lot three 21.24 acres net.

### II. PROJECT DESCRIPTION

The properties associated with this application are accessed from a private road easement, East Road that intersects with Spruce Grove Road to the west. There is an existing single family residence on APN 012-049-10, which was approved for construction in 2004. In 2014, a minor use permit also was approved on this same property to allow for the establishment of a small winery within a 3,000 square foot building and the production of up to a maximum of 15,000 cases of wine annually. Also on this parcel, there is a large mapped vernal pool site that is discussed further on in this report.

Owners/Applicants: Cody Smith and Patrick Smythe, P O Box 1007, Middletown CA, 95461

Location: 19657 and 19658 East Road, Lower Lake

A.P.N.: 012-049-07 and 012-049-10

General Plan: Rural Lands

Zoning: "RL-W" Rural Lands-Wetlands Combining District

### **III. ENVIRONMENTAL SETTING**

Existing uses and improvements: APN 012-049-10 is developed with a single family residence and a 3,000 square foot winery building along with approximately two acres of grapes. Access to this property is from an approximately one-third of a mile long driveway. APN 012-049-07 is currently undeveloped.

Surrounding Zoning and Land Use:

North: "RL" Rural Lands; undeveloped, 472 acres

East: "RL" Rural Lands; single family dwelling, 38 acres

South: "RR" Rural Residential; Single Family Residence and undeveloped, two approximately 10 acre parcels

West: "RR" Rural Residential, Single Family Residences, numerous ten acre parcels

Topography: The parcel transitions from being relatively flat along the southern boundary to relatively steep at the northern boundary.

Soil Classes: According to the Soil Survey of Lake County prepared by the USDA, there are three soil types on this property: (1) Collayomi-Aiken Whispering complex (127), five to thirty percent slopes. (2) Konocti-Hambright complex (152) five to fifteen percent slopes. (3) Konocti Variant-Konocti-Hambright complex (156) slopes of fifteen to thirty percent.

Water Supply: According to the Environmental Health Department's existing records and comments on the project, proposed parcel one has an existing residence being supplied with well water. Proposed parcel two also has an existing well for potable water needs. Proposed parcel three will be required to demonstrate that potable water is available prior to final map approval.

Sewage Disposal: Existing septic system on proposed lot one, approved septic system on proposed parcel two and neither an existing nor an approved waste removal system on proposed lot three. This will be required to be resolved prior to final map recordation.

Fire Protection: Calfire Protection District served by the Lake County Fire Protection District operating out of the community of Lower Lake.

### **IV. ENVIRONMENTAL ANALYSIS**

#### **Cultural Resources**

The project applicant has submitted a Cultural Resource Evaluation report for the subject properties. This report indicated that no significant cultural resources were found on the site and recommended that the project proceed as proposed.

## Biological Resources

A review of the County of Lake's GIS database California Natural Diversity Database (CNDDB) indicated that there were four instances of endangered or threatened plant species located on APN 012-049-10. A list and description of the species follows:

*Many-flowered navarretia*, is a California endangered plant species and also is listed as endangered under the federal Endangered Species Act. *Many-flowered navarretia* is a vernal pool plant, and is found only in these unique wetlands. Development can result in direct removal of vernal pool habitat as well as indirect consequences such as altered hydrology, runoff, invasive species encroachment, and groundwater contamination. Occurrences of *many-flowered navarretia* on privately-owned land should be protected through conservation easements or other means. Surveys should be conducted at all occurrences to determine the current status of the species. Additionally, research should be conducted on the genetic structure and taxonomic status of *many-flowered navarretia* and its related subspecies. Potential habitat should be surveyed, and if new populations are located, they should be protected.

*Legenere limosa* is a seriously endangered annual wildflower of the bellflower family endemic to limited portions of Northern California. This species is the sole member of the genus *Legenere*. Blooming in May and June, it occurs below elevations of 610 meters in vernal pools and certain other moist habitats. Principal colonies are in Solano County, Sacramento County, Lake County, Napa County, Sonoma County, Tehama County and Yuba County.

*Slender Orcutt Grass* is State-listed as endangered and federally listed as threatened. *Slender Orcutt grass* is endemic to California and has been found in Butte, Lake, Lassen, Modoc, Plumas, Shasta, Siskiyou, and Tehama Counties, with the southernmost extent of its current range falling in Sacramento County. Occurrences of *Slender Orcutt grass* are concentrated in the northeastern portion of the Sacramento Valley and on the Modoc Plateau. Appropriate habitat exists in vernal pools.

*Boggs Lake hedge-hyssop* is a California endangered plant species. The species is restricted to clay soils in or near shallow water such as at the margins of lakes and vernal pools, and blooms April through September. *Boggs Lake hedge-hyssop* has probably been most impacted in the past by habitat loss and fragmentation resulting from development and conversion of land for agriculture and other purposes.

Also located on the above noted parcel associated with this subdivision application is a mapped and identified wetland habitat shown as a vernal pool, which is defined as: a temporary pool of water that provide habitat for distinctive plants and animals, but are most always devoid of fish, which allows unique plant species to thrive. As a result of this parcel map application, it could be construed that single family residences would be ultimately constructed along with the possibility of the construction of accessory second residences (granny units). This, along with the existing residence and vineyard and tasting room could negatively affect the existing vernal pool and surrounding habitat. This could constitute a significant impact to the environment. As a result, staff has added conditions of approval to mitigate these impacts to a less than significant level. These conditions include the requirement that a biological report be prepared for the area surrounding the vernal pool along with recommended mitigation measures from the biologist, a wetland delineation conducted by the Corps of Engineers to map the boundaries of the wetland area and indicating a building envelope on proposed lots two and three to limit sites to locations that will least likely affect the wetlands and other sensitive areas.

This proposal will result in the creation three lots, which will result in an incremental reduction in wildlife habitat and, therefore, will be subject to the State Fish and Wildlife fee. This fee must be paid within 30 days of approval of the tentative parcel map/adoption of the Mitigated Negative Declaration in accordance with State law. If this fee is not paid within the allotted thirty day time period, the parcel map shall become null and void.

### **General Plan Consistency**

This application must be found to be consistent with the County of Lake's General Plan. As such, the following findings have been made to that effect:

**Policy LU-3.2 Rural Development** states: *"The County shall consider rural development intensity in rural areas located outside of Community Growth Boundaries according to its ability to support water and waste disposal needs, access, slope characteristics, protection of sensitive natural resources and the site's susceptibility to natural hazards."* As conditioned this project supports this policy of the General Plan. The site is not within the growth boundary of Lower Lake, as conditioned, all lots shall have adequate waste removal and potable water needs satisfied, access is provided by a private road located off of Spruce Grove Road, slope characteristics go from relatively flat to somewhat steep with building areas available on each lot that is currently undeveloped, conditions of approval have been added to address the potentially significant impacts associated with the vernal pool habitat and threatened plant species and the hazard of wildland fires also has been addressed.

**Policy HS-7.1 Consultation with Fire Service Districts** states: *"The County shall consult with the appropriate fire service district or California Division of Forestry in areas designated as high and extreme fire hazard, for particular regulations or design requirements prior to issuance of a building permit or approval of subdivisions."* As detailed below in the Wildland Fire subcategory, staff has addressed the above noted General Plan policy and added conditions of approval to reflect the needs and requirements of Calfire's revised wildland fire safety requirements listed in State Responsibility Area Fire Safe Regulations Public Resources Code 4290.

**Policy OSC-1.2 Development in Environmentally Sensitive Areas** states: *"The County shall limit the encroachment of development within areas that contain a moderate to high potential for sensitive habitat, and direct development into less significant habitat areas."* As noted earlier, the project site is home to a vernal pool that lists four potentially endangered or threatened species as possibly being located at this site. Conditions of approval have been added that require the applicant to limit building near this site on proposed lot two.

### **Lower Lake Area Plan Consistency**

This project must be found to be consistent with the Lower Lake Area Plan. As such, the following findings have been made:

**Policy 3.41** states in part: *"Remaining wetland and riparian habitat should be protected..."* Conditions of approval have been added to this application that will protect the existing wetland area.

**Objective 5.1a** states: *"Orderly growth and development shall be encouraged within the Lower Lake area by focusing higher intensity development within the community of Lower Lake. Low intensity land use patterns are encouraged in the remainder of the planning area."* The proposed parcel map application would require a density of one dwelling unit per twenty acres.

As such, this would be a very low intensity of development, which also is located approximately five and one-half air miles from the community of Lower Lake.

**Policy 3.91** states in part: "...Archeological surveys shall be required in accordance with state law whenever new development could potentially impact unique or significant cultural resources." The project applicant had a cultural resources evaluation completed for the entire project site.

### **Subdivision Ordinance Consistency**

The County of Lake's Subdivision Ordinance regulates the subdivision of properties within Lake County and supplements the State of California's Subdivision Map Act. Section 17-21.2 of the County's Subdivision Ordinance requires that a tentative subdivision map and a final subdivision map be filed to subdivide properties. This application has filed a tentative map to merge and resubdivide the two subject properties. A final map shall be required to be filed before the subdivision is recorded.

### **Subdivision Map Act Consistency**

Section 66445 of the State of California's Subdivision Map Act requires that parcel maps shall be prepared by a registered civil engineer or a licensed land surveyor. This applicant's tentative parcel map was prepared by a licensed land surveyor employed by Albion Surveys.

### **Air Quality**

While the subdivision of one parcel into two will not in and of itself contribute to the degradation of surrounding air quality standards, grading and other activities associated with construction of new access driveways and residences in the future could impact air quality for a short period of time during construction. However, these potential impacts would be addressed by future building and/or grading permits once the parcels are created and developed, and are beyond the scope of this parcel map proposal.

### **Waste removal and potable water**

The project applicant has demonstrated water and sewer availability on two of the three parcels with proposed parcel one already having an approved septic system and potable water well, proposed parcel two having an existing well and an approval from the County of Lake's Environmental Health Department for a septic system but proposed parcel three having neither an approved septic system nor a well for potable water needs. Prior to the approval of the final map for this application, the applicant shall be required to submit proof that parcel three satisfies the requirements for wastewater disposal and potable water needs.

### **Wildland Fire**

The following findings are a recent requirement instituted by the State of California to address fire hazard impacts. Senate Bill (SB1241) requires that the legislative body of a city or county make three findings before approving a tentative map, as detailed below, when the parcel proposed to be subdivided is located in a State Responsibility Area (SRA) or a very high fire hazard severity zone. The subject properties are located in a SRA and within a high fire hazard severity zone.

*1. A finding supported by substantial evidence in the record that the design and location of each lot in the subdivision, and the subdivision as a whole, are consistent with any applicable regulations adopted by the State Board of Forestry and Fire Protection pursuant to Sections 4290 and 4291 of the Public Resources Code.*

As part of the application referral process, the appropriate fire suppression agencies were notified of this subdivision proposal. Any applicable comments have been included in Attachment 2 of this staff report and conditions of approval have been added as needed. Sections 4290 and 4291 are enforced during the final phase of a building permit application by Calfire, the state fire response agency.

*2. A finding supported by substantial evidence in the record that structural fire protection and suppression services will be available for the subdivision through any of the following entities:*

*A. A county, city, special district, political subdivision of the state or another entity organized solely to provide fire protection services that is monitored and funded by a county or other public entity.*

*B. The Department of Forestry and Fire Protection by contract entered into pursuant to Section 4133, 4142 or 4144 of the Public Resources Code.*

The project area is served by Lake County Fire Protection District operating out of the community of Lower Lake. This district is operated by the California Department of Forestry and Fire Protection.

*3. A finding that to the extent practicable, ingress and egress for the subdivision meets the regulations regarding road standards for fire equipment access adopted pursuant to Section 4290 of the Public Resources Code and any applicable local ordinance.*

As part of the requirements to obtain a Certificate of Occupancy for a residence in the County of Lake, an applicant for a building permit is required to have the California Department of Forestry indicate on the building permit application that all of the requirements of Sections 4290 and 4291 of the Public Resources Code have been met.

## **Public Services**

The Lake County Subdivision Ordinance, section 17-27 requires that residential lot subdividers pay a "Quimby" park fee prior to the recordation of the final parcel map, unless recreational open space is provided. The project applicant is not proposing to provide open space for recreational purposes with this application. As such, the developer will be required to pay the current Quimby fee as determined by the Public Services Department.

## **Transportation/Traffic**

The project site is accessed from East Road, which is a private road easement accessed off of Spruce Grove Road that ends at the easterly property line of APN 0123-049-07. A long driveway off of East Road currently exists that provides access to the existing residence on proposed lot one. Lots two and three also would take access off of East Road at different locations. The Roads Division of the Public Works Department has commented that certain improvements to East Road are a condition of approval that the applicant will need to satisfy prior to final map recordation.

## **V. CONCLUSION**

The overall impacts of this project will be less than significant with the mitigations incorporated as specified in attachment #3. This project is consistent with the Lake County General Plan, Zoning Ordinance, Subdivision Ordinance, the State Subdivision Map Act and the Lower Lake Area Plan. The parcel sizes proposed are compatible with the neighborhood character. The addition of at most two new single family residences and possibly two accessory second units on lots at least twenty acres in size would not significantly affect surrounding properties. With the inclusion of mitigation measures to protect any possible endangered or threatened plant species located in the existing vernal pool, impacts to these also will be less than significant.

## **VI. RECOMMENDATION**

Staff recommends that the Planning Commission:

- A. Adopt a mitigated negative declaration for PM 15-03 with the following findings:
  - 1. This project is consistent with land uses in the vicinity.
  - 2. This project is consistent with the Lake County General Plan, Zoning Ordinance, Subdivision Ordinance and the Lower Lake Area Plan.
  - 3. This proposal is consistent with the State Subdivision Map Act including the adopted findings in Government Code Section 66472.02 related to fire protection.
  - 4. The project will result in effects to fish and wildlife habitat and is subject to the California Department of Fish and Wildlife filing fee.
  - 5. As mitigated this project will not result in any significant adverse environmental impacts.
- B. Approve PM 15-03 subject to the conditions listed in Attachment #3 and with the following findings:
  - 1. This project is consistent with the Lake County General Plan, Zoning Ordinance, Subdivision Ordinance, and the Lower Lake Area Plan.
  - 2. This project is consistent with the State Subdivision Map Act including the adopted findings in Government Code Section 66472.02 related to fire protection.
  - 3. As mitigated this project will not result in any significant adverse environmental impacts and a mitigated negative declaration has been adopted.
  - 4. The site is suitable for three parcels, each of which will have adequate road access and frontage.
  - 5. The design of the subdivision includes access to water, sewage disposal and utilities and will not result in impacts to public health.

**Sample Motions:**

**A. Mitigated Negative Declaration**

I move that the Planning Commission find that on the basis of the Initial Study No. 15-12 prepared by the Planning Division the parcel map as applied for by Cody Smith and Patrick Smythe 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.

**B. Tentative Parcel Map Approval**

I move that the Planning Commission find that the tentative parcel map applied for by Cody Smith and Patrick Smythe on property located at 19657 and 19658 East 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.

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 blue ink, appearing to be 'AS', is written over the 'Reviewed by:' text.