



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 AM
MAY 12, 2016

Memo

To: Planning Commissioners
From: Keith Gronendyke, Associate Planner
Date: 5/11/16
Re: Smythe Parcel Map Application PM 15-03

The County Surveyor has indicated that a condition of approval will be required to dedicate, for public use, an easement fifty-feet in width for roadway and public utilities from Spruce Grove Road to the east line of Parcel Two of the tentative map. The condition shall read as follows:

Prior to the recordation of the final parcel 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 through Parcels One, 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.

If approved, this condition shall be added to the Parcel Map conditions as Condition D5 at the conclusion of this meeting and approval of this application.



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 AM
December 14, 2017

Memo

To: Planning Commissioners
From: Keith Gronendyke, Associate Planner *KG*
Date: December 11, 2017
Re: Smythe Deviation Application DV 16-01

The applicant has submitted additional materials for the above noted deviation request. Mr. Smythe has indicated that he still desires to move ahead with the parcel map application, which corresponds with the deviation request. Please keep in mind that the parcel map is not finalized as a final map has not been approved by the County of Lake, nor has the lot line adjustment application been recorded. As such, the parcel configuration is still as shown on attachment 2 of the staff report for this project.

ITEM 3
9:45 AM
December 14, 2017

Update on Road Deviation Request 16-02 for Approved Parcel Map 15-03 as of 12-4-2017

Since the filing of our road deviation request in July of 2016 (16-02) the property conditions have now changed.

After months of trying to get our deviation request presented to the planning commission and receiving no proposed date for the hearing, we decided to head in a different direction. We consulted with the planning department about doing a lot line adjustment so that we could separate parcel # 3 out of the parcel map / road deviation request. Since this process was only supposed to be a 6 or 8 week long procedure and we had a potential buyer for the property we decided to pursue this avenue. This was a costly decision since we now needed to pay additional county fees and additional surveyor and title costs. Unfortunately since we were getting no response from the county we elected to bear these costs. All of the previously approved boundaries of the parcel map 15-03 were retained as not to invalidate the parcel map.

The lot line adjustment was approved on July 19, 2017 for parcel # 3. We are currently getting new deeds drawn up on the properties involved. We are currently in a contract to sell parcel #3.

In preparing parcel # 3 for sale we cleared East Road from the point where it enters parcel #3 on the West to the Eastern boundary line at our neighbor's property. We also cleared the road from my neighbor's gate south to a point where we have access to parcel #2. We cleared the road to a minimum width of 20'. We discovered the road was originally built this wide and had a gravel base. We have done grading and improved the drainage on the road. (see attached pictures).

To my knowledge the county has not come out to look at the road and the access through our neighbors land. Our Supervisor (Moke) has been out to the property to inspect the road and our listen to our issues with the road as it travels through our neighbor's property from Spruce Grove Road.

We have tried in vain to sit down with the county and resolve these issues. No one from the county was whiling to address our concerns or work out a plan to move forward. No other alternatives have been proposed to us. We believe that these are not unreasonable requests and that the intent of the conditions placed on the parcel map concerning public safety have been met.

Based on the current conditions we are requesting the following:

1. We be granted a road deviation as requested in our original filling (16-02) since we do not own title to the lands where the road exits parcel # 3 to Spruce Grove Road.
2. That East Road remain a private road as previously approved.
3. That no other improvements be required to East Road.
4. All conditions relating to parcel #3 be removed as it is now a separate parcel. Note that all requirements have already been meet with the exception of identifying a possible residence location on the parcel.
5. No requirement for a biological review of the vernal lake. Any building that would take place must be 50' from the high water mark of the vernal lake. This is just a waste of money and serves no purpose.
6. Only a tentative location for a new residence be provided for parcel #2. I fear that if I designate a location and then want to change that location in the future that the county will require me to jump through many hoops! I might want to sell the property in the future and a new owner may not like the location that I selected. The planning department has ample opportunities to review a new house location prior to a building permit being issued.
7. An extension of 6 months' time to complete any require tasks from the original completion date of May 12, 2018 for parcel map conditions be granted due to the extremely slow response from the county. We believe that is only fair given the massive delays and costs incurred by us due solely from the county's lack of addressing the issues, and the processing our deviation request.

Thank you for your consideration to our request and I look forward to completing this process.

Regards,

Patrick M Smythe

Co-property owner

Picture Locations and Direction

APPROXIMATE EASEMENT LINE
 BUILDING LINE
 EDGE OF GRAVEL ROAD
 EDGE OF ASPHALT/CONCRETE PAVEMENT
 OVERHEAD UTILITY LINE

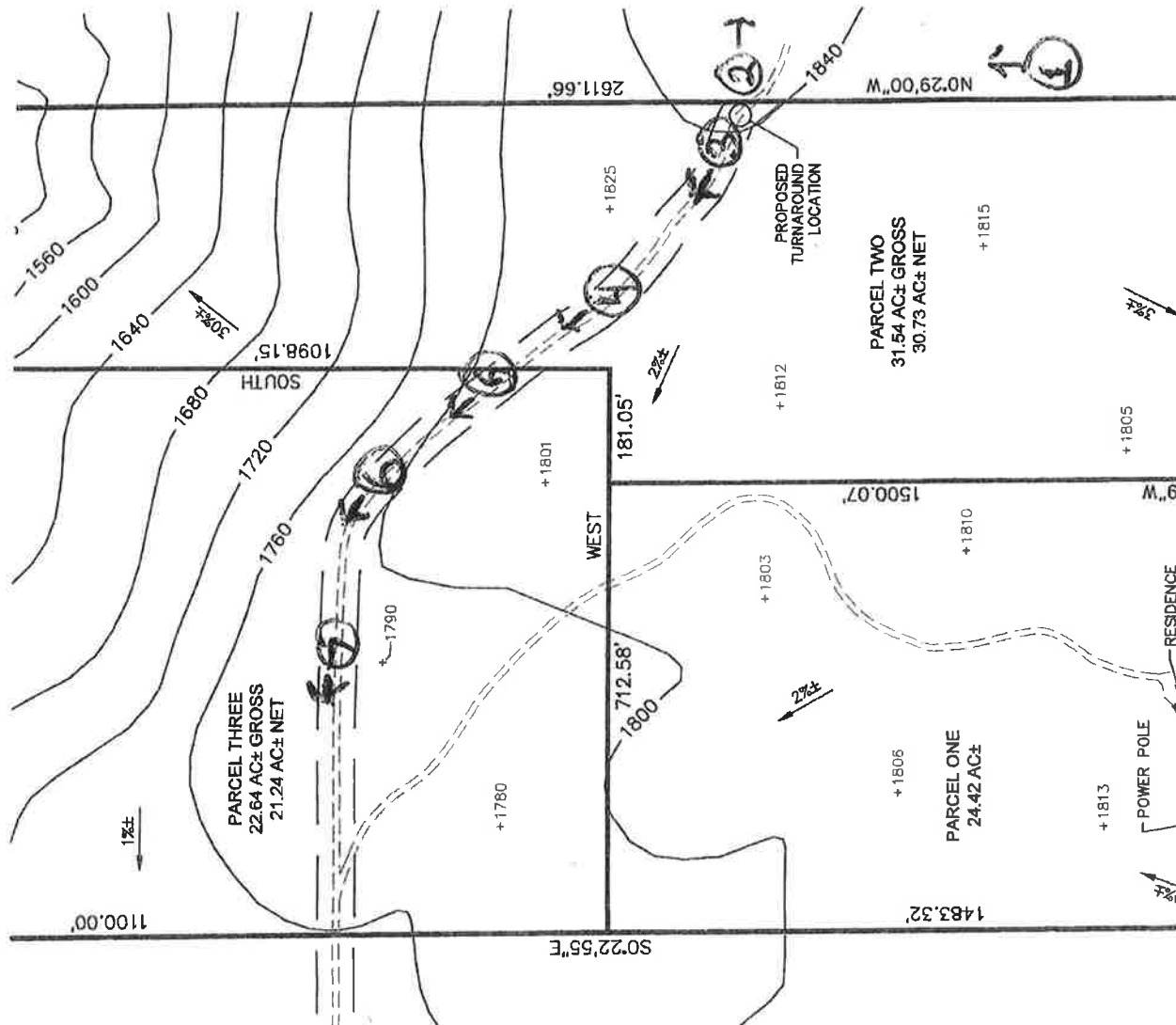
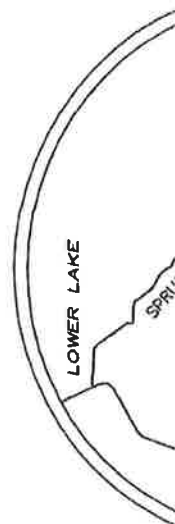
APPROXIMATE SLOPE PERCENTAGE

EAST ROAD (PRIVATE ROAD)
 60' ROADWAY EASEMENT
 524' O.R. 143, L.C.R.

SPRUCED GROVE ROAD
 (COUNTY ROAD)

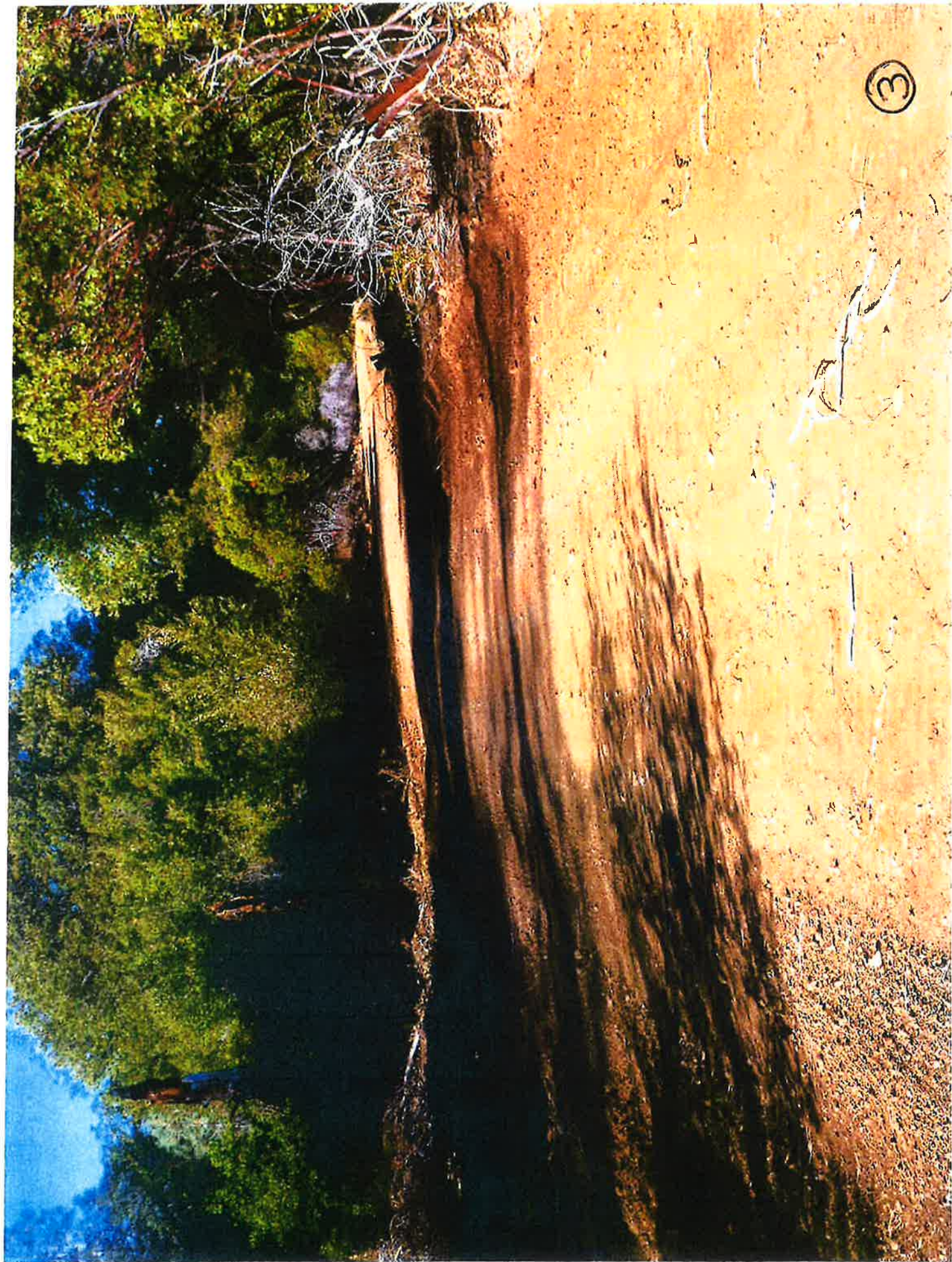


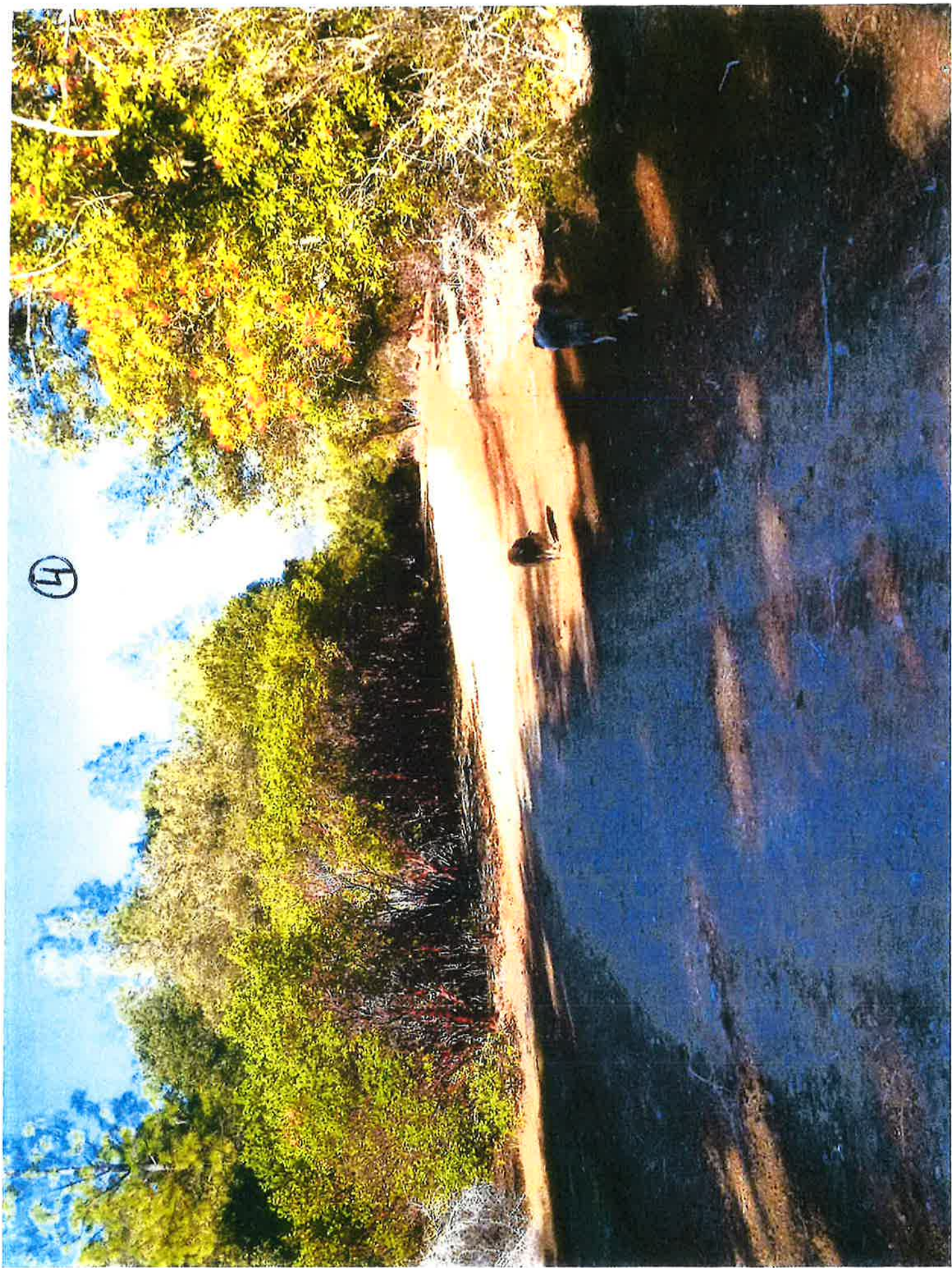
GRAPHIC SCALE
 (IN FEET)
 1 INCH = 200 FT.

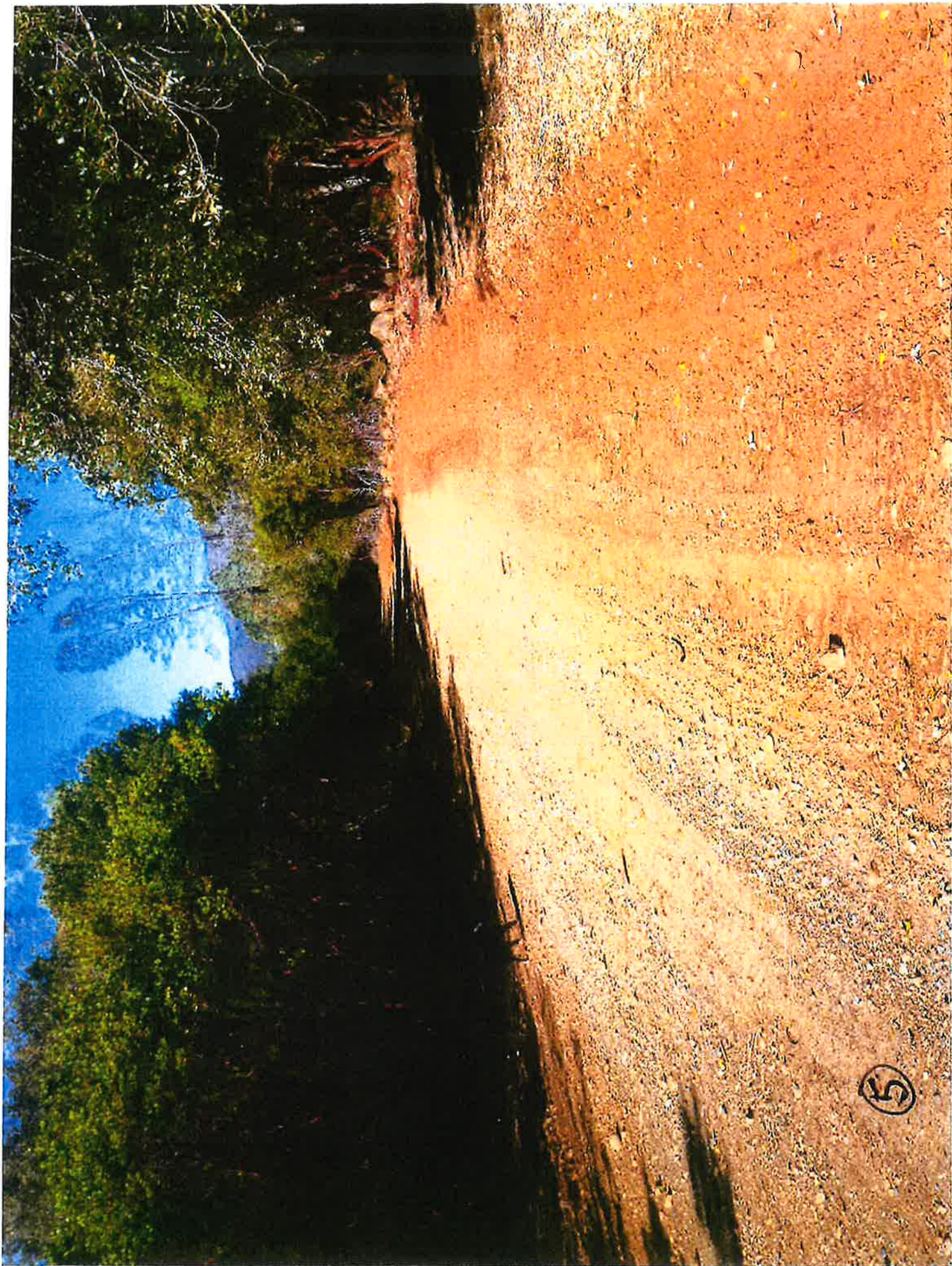
















Patrick M. Smythe

19697 East Road

Lower Lake CA. 95457

December 19, 2017

Community Development Department

Planning Division

Courthouse – 255 N. Forbes Street

Lakeport CA. 95453

RE: Parcel Map 15-03 Road Requirements and Deviation

Dear Planning Department,

This letter is in response to the hearing in front of the Planning Commission held on 12-14-17. At the hearing we came to an impasse on the counties assertion requiring the need for public access to our property and the dedication of the right. My contention was that there is no language in the parcel map section that requires public access be given or granted.

I will outline my points supporting my contention that the parcel map section stands alone in the requirement for access and does not include all of the regular subdivision requirements. I will also like to offer a proposed language that can be added to the requirements of the parcel map that will address the counties concerns for access for fire, police, ambulance and other government entities in performance of their duties.

First I would like to point out these definitions:

Subdivision. The division of any real property into lots or parcels as defined in the subdivision Map Act of the State of California and as may be amended from time to time. (aa)

Division of Land. Any subdivision of four (4) or fewer lots, or any subdivision for which Government Code Section 66426 does not require a tentative and final map.(ab)

This point is crucial!

A subdivision and a division of land are not the same in the subdivision ordinance!!

Simple logic would tell you that if the State wanted all divisions of land to be dealt with in the manner, the same standard rules would apply to all divisions. The State would not have gone to the effort to make special rules for the division of land unless their intent was to make these specific divisions differ from the standard subdivision requirements. The Subdivision rules and the Division of Lands rules are clearly different on purpose. The only rules that apply for a division of land are outlined in the section 17-21 that deals exclusively with the Division of Lands (parcel maps). I fully believe that this was the intent of the State.

Sections 3.3 and 3.4 further designates that divisions of lands (parcel maps) differs from subdivision by giving the planning commission powers and duties to oversee these unique divisions of land.

Section 17-4 (u) states my assertion very clearly: Parcel Map. A map prepared to facilitate the **division of land NOT considered a subdivision**,... I do not believe it can be any clearer that a division of lands is NOT a subdivision as specified in the ordinance and only needs to meet the access requirements set out in the section that governs the Division of Lands (parcel maps).

I have consulted a Real Estate Attorney to me a legal perspective on this issue. He has concurred that the law governing the Division of Lands has its own specific set of rules and requirements. I am prepared to get a legal opinion in writing if so required.

Access requirements:

Section 21.3 (1) sets the requirements for access roads in the parcel map. The requirement is for a 50' minimum width right of way easement 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 requirement **do not** require public access or dedication!

The existing easement grants us a 60' wide right of way and is irrevocable. No one that I have heard speak at the Planning Commission hearing has denied that the existing easement does not meet this requirement!

I understand the counties concerns in regards to public safety personnel being able to access the property in performance of their duties. As I have asserted none of the existing property owners object to this. The existing easement gives me these rights " and shall be for the purpose of ingress and egress off all owners of any part of the real property above described, and their successors in interest, and their invitees."

I would propose that we add some language that I can designate public safety entities as my invitees. This would give them all the same rights as I have to use the easement roads.

The language could be something like this: ***The applicant here by grants and irrevocable offer of access to all government and private public safety officials in the performance of their assigned duties for access to the established easement road (East Road) previously granted by the 5-19-1967 Declaration Creating Roadway Easements by Leisure Properties, establishing the rights of all owners of the real properties affected by the road easement as my invitees.***

I do not need to get the other property owners permission to do this as I already have these rights and can designate who my invitees are.

One last point on this subject; section 25.11 is the section I believe the county is using to support their requirement for dedication as a public road. The section does not state that ALL roads must be dedicated. It states "Streets and other parcels DESIGNED AND INTENDED FOR ANY PUBLIC USE shall be offered for dedication". NO ROADS OR PARCELS ARE DESIGNED OR INTENDED FOR ANY PUBLIC USE IN MY PARCEL MAP! This section also is for subdivisions and not for Divisions of Land.

I would like to outline what I am now requesting;

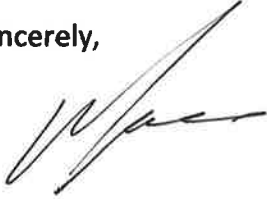
1. The road deviation through my neighbor's properties be granted on the basis of title restriction.
2. No additional work be required to the existing parts of East Road to the East of my neighbor's property. The road that exists now meets the counties road standard of 20' wide with a compacted gravel base. As set out in 17-21.3 (3) "... unless the improvements already meet or exceed the minor road standard (<400ADT), in which case no additional improvements other than repair of deteriorated portions of the existing road shall be required." I have completed additional grading to improve the drainage of the road and is stable in all weather conditions. This easily meets the concerns of the county with respect to cars being able to pass each other in case of an emergency.
3. Remove the requirement for a biological review of the vernal pool and a high water delineation. There is a current 50' set back from the vernal pool high water mark. This will ensure that no vegetation in the vernal pool area is affected by any building that might take place in the future. As I stated I have already received a building permit for my winery building without this being required.

I would like to thank the county for working with me on this. I understand that all parties have their own rules and goals to achieve. After reviewing this letter I would hope that we could schedule a time to meet and go over the issues before our next scheduled Planning Commission

meeting in January. Perhaps sometime soon after the first of the year would work for us all. You can reach me any time at (707) 837-6662 or by E-Mail @ pmsmythe169@aol.com.

I look forward to meeting you in the New Year and resolving these last few issues so we complete the parcel map.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patrick Smythe', with a stylized, sweeping flourish at the end.

Patrick Smythe

Co-Property Owner

Cc. Lake County Surveyor

Cc. Cody Smith

Chapter 17 - SUBDIVISION REGULATION*

ARTICLE I. - GENERAL PROVISIONS

Sec. 17-1. - Citation and authority.

1.1 This chapter is adopted to supplement and implement the Subdivision Map Act (Title 7, Division 2 commencing with Section 66410 of the Government Code and may be cited as the Subdivision Ordinance of the County of Lake.

(Ord. No. 664, § 1.1, 1971; Ord. No. 1165, § 1, 11-4-80)

Sec. 17-2. - Purpose.

2.1 For the purpose of promoting the public health, safety, convenience and general welfare, the design, improvement and survey data of subdivision and the form and content of tentative, final and parcel maps thereof, and the procedure to be followed in securing official approval thereof, shall be governed by the provisions of the aforesaid acts adopted by the Legislature of the State of California, and by the additional provisions of this chapter, and shall comply with the provisions of the General Plan.

(Ord. No. 664, § 2.1, 1971)

2.2 Further, it is the purpose of this chapter to encourage new concepts and innovations in the arrangement of building sites within subdivisions. Deviations from the traditional mechanical approach to the subdivision of land are encouraged in order to facilitate the ultimate development of the land in a manner that will be commensurate with contemporary living patterns and technological progress.

(Ord. No. 664, § 2.2, 1971)

Sec. 17-3. - Planning Commission.

3.1 The Planning Commission is hereby designated as the Advisory Agency with respect to subdivisions as provided in the Subdivision Map Act of the State of California.

(Ord. No. 664, § 3.1, 1971)

3.2 The Planning Commission shall have all the powers and duties with respect to tentative maps and final subdivision maps, and the procedure relative thereto, which are specified in law and this chapter.

(Ord. No. 664, § 3.2, 1971; Ord. No. 791, § 1, 3-19-74)

3.3 The Planning Commission is hereby designated as the Advisory Agency with respect to divisions of land (parcel maps) as provided in the Subdivision Map Act and this Chapter.

(Ord. No. 701, § 1, 1972; Ord. No. 1241, § 1, 4-20-82)

3.4 The Planning Commission shall have all the powers and duties with respect to tentative and final parcel maps and procedures relating thereto as specified by law and this Chapter.

- (i) Final Map refers to a map prepared in accordance with the Subdivision Map Act and this chapter, which is designed to be filed with the Recorder of the County of Lake.
- (j) Improvement refers to such street work, drainage needs and utilities, landscaping, parks, storm water pollution prevention facilities or other facilities to be installed, or agreed to be installed, by the subdivider on the land or appurtenant thereto to be used for public streets, highways, ways and easements, as are necessary for the general use or benefit of the lot owners in the subdivision and the surrounding area as a condition precedent to approval and acceptance of the final map, or parcel map thereof.

(Ord. No. 2813, § 2, 2-13-2007)

- (k) Lot. Means a parcel of land established, or to be established, by the Standard Subdivision Procedure or Minor Subdivision Procedure, as provided herein.
- (l) Lot Width, Average. The sum of the length of the front and rear lot lines, divided by two (2). In the case of irregularly-shaped lots having four (4) or more sides, "average lot width" shall be the sum of length of two (2) lines, drawn perpendicular to one (1) side line at the widest and narrowest portions of the lot, divided by two (2).
- (m) Lot Depth, Average. The sum of the length of the two (2) sides of the lot divided by two (2).
- (n) Lot Depth. The horizontal distance between the front and rear lot lines, measured in the mean direction of the side lot lines.
- (o) Lot Line, Front. In the case of an interior lot, a line separating the lot from the street; and in the case of a corner lot, a line separating the narrowest street frontage of the lot from the street, except in those cases where the latest recorded tract deed restrictions, approved as part of a subdivision approval, or the final map, specify another line as the front lot line.
- (p) Lot Line, Rear. A lot line which is opposite to and most distant from the front lot line and, in the case of an irregular, triangular or gore-shaped lot, a line within the lot most nearly parallel to and at the maximum distance from the lot line, having a length of at least ten (10) feet.
- (q) Lot Line, Side. Any lot boundary line not a front lot line or a rear lot line.
- (r) Owner. The individual or individuals, firm, partnership or corporation having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under the law of the State of California and this chapter.
- (s) Parkway. The area between the curbline and the property line.
- (t) Panhandle, Keyhole or Flag Lot. A lot or parcel which has access to the abutting street by a strip or segment which is a part of said lot and which meets the requirements of this chapter as to length, width and grade; and provided that the main portion of the lot meets the requirements of this chapter as to design and area.
- (u) Parcel Map. A map prepared to facilitate the division of land not considered a subdivision, and which meets the requirements of the Subdivision Map Act of the State of California for Parcel Maps as may from time to time be amended.

(Ord. No. 791, § 1, 3-19-74)

- (v) Pedestrian Way. An easement exclusively for pedestrian use.
- (w) Reserve Strip. A strip of land not less than one (1) foot in width deeded to the county for the purpose of regulating access to a partially dedicated or dead-end alley, street or highway, or to any arterial street.
- (x) Storm Water. Surface runoff and drainage resulting from storm events and snowmelts.

(Ord. No. 2813, § 4, 2-13-2007)

- (y) Subdivider. A person, firm, corporation, partnership or association who proposes to divide, divides or causes to be divided real property into a subdivision for himself or for others except that employees and consultants of such persons or entities, acting in such capacity, are not "subdividers."

(Ord. No. 791, § 1, 3-19-74; Ord. No. 1165, § 2, 11-4-80; Ord. No. 2813, § 3, 2-13-2007)

- (z) Tentative Map. Any map made for the purpose of showing the design of a proposed subdivision of any kind, showing the existing conditions in and around it, prepared as required in this chapter and the Subdivision Map Act.

(Ord. No. 2813, § 3, 2-13-2007)

- (aa) Subdivision. The division of any real property into lots or parcels as defined in the Subdivision Map Act of the State of California and as may be amended from time to time.

(Ord. No. 791, § 1, 3-19-74; Ord. No. 2813, § 3, 2-13-2007)

- (ab) Division of Land. Any subdivision of four (4) or fewer lots, or any subdivision for which Government Code Section 66426 does not require a tentative and final map.

(Ord. No. 664, § 4, 1971; Ord. No. 791, § 1, 3-19-74; Ord. No. 1165, § 3, 11-4-80; Ord. No. 2813, § 3, 2-13-2007)

ARTICLE II. - STANDARD SUBDIVISION PROCEDURE

Sec. 17-5. - Declaration.

5.1 This procedure shall apply to all subdivisions and parts of subdivision.

(Ord. No. 664, § 5, 1971)

ARTICLE III. - TENTATIVE MAP

Sec. 17-6. - Tentative Map.

6.1 The preparation of a tentative subdivision map or maps shall comply with this chapter as to design, and shall include the following data:

- (a) A sketch at a minimum scale of 1" = 1000' indicating the location of the proposed subdivision in relation to the surrounding area or region and showing land use in the surrounding area.
- (b) Name and address of record owner and subdivider.
- (c) Name and address of licensed land surveyor, registered civil engineer or other qualified professional who prepared said tentative map.

20B.4 Effect of Merger. The recording of the Notice of Merger shall constitute a merger of the separate parcels or units of land into one (1) parcel for purposes of this Chapter by operation of law and shall be shown as such on the Assessment Roll. Such merger shall have no effect on streets, easements, or any dedications or offers of dedications or any other recorded interest.

(Ord. No. 1334, § 1, 7-5-83)

20B.5 Appeals.

- 5.1 Administrative Action. Any person aggrieved by any action of the Planning Director under the provisions of this Section may appeal such action to the Planning Commission.
- 5.2 Planning Commission Action. Any action or determination of the Planning Commission may be appealed to the Board of Supervisors.
- 5.3 Filing Requirements. Appeals shall be addressed to the appellate body, in writing, and shall state the basis of the appeal. Appeals shall be filed in the Planning Department not later than five o'clock PM of the fifth working day following the date of the action from which the appeal is taken. Appeals shall be accompanied by the filing fee as specified in the resolution of the Board of Supervisors establishing fees for subdivisions.
- 5.4 Procedure and Time Limits. Appeals shall be governed by the procedures and time limits as set forth in Government Code Section 66452.5 except as expressly provided herein. For the purposes of this Article "appeal board" shall mean the Planning Commission and "legislative body" shall mean the Board of Supervisors. Both the Planning Commission and the Board of Supervisors on appeal may sustain, modify, reject or overrule any action of the Planning Director or the Planning Commission.

(Ord. No. 1334, § 1, 7-5-83)

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

21.1 The Planning Commission shall have all the powers and duties given to 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.

(Ord. No. 701, § 2, 1972; Ord. No. 1002, § 1, 2-27-82; Ord. No. 1073, § 1, 5-8-79; Ord. No. 1241, § 3, 4-20-82)

21.2 Tentative maps and final Parcel Maps, as set out in the Subdivision Map Act, shall be prepared and filed with the County Surveyor, as required by this Section, to accomplish any division of land.

(Ord. No. 664, § 6.2, 1971)

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 (50) 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.

