

1 BOARD OF SUPERVISORS, COUNTY OF LAKE, STATE OF CALIFORNIA

2
3 In the Matter of the Appeal)

4 of Patrick Smythe)

5)
6 [AB 18-01])
7 _____)

FINDINGS OF FACT AND
DECISION

8
9 This proceeding was commenced by virtue of an appeal by Patrick Smythe
10 (the “Appellant”) of the Planning Commission’s determination on January 25, 2018,
11 to approve Deviation DV 16-01 for Parcel Map PM 15-03 to allow a deviation from
12 road improvements and modification of various conditions located at 19658 and
13 19697 East Road, Lower Lake, California (the “Project”).

14 A duly noticed public hearing on the appeal was held before this Board on
15 June 19 and July 10, 2018, and evidence, both oral and documentary, was presented.
16 Based upon the evidence and applicable law, we find the following:

- 17 1. That the parcel map for this Project, PM 15-03, allowing for the creation of
18 three parcels of land, was previously approved by the Planning Commission in
19 2016. No public dedication of East Road was required by the Planning
20 Commission at that time. However, due to concerns raised by the County
21 Surveyor subsequently, the Appellant made an application for deviation which
22 was approved by the Planning Commission, as modified by County staff, on
23 January 25, 2018. The Planning Commission approved the Deviation for
24 Parcel Map 15-03 to allow a deviation for road improvements and
25 modification of certain conditions regarding the subject Project. A timely
26 appeal of the Planning Commission’s decision was filed by Appellant on
27

February 8, 2018.

2. That the Appellant is Patrick Smythe. In his appeal filed on February 8, 2018, the Appellant requested that certain conditions be removed in their entirety from the Parcel Map conditions. Specifically, the Appellant has requested the removal of Conditions C.4, C.5, D.4, D.5, and D.6. Further, the Appellant requested Condition D.1 be modified to reflect that the portion of East Road which runs through his property presently meets minor road standard improvements such that no additional work should be required. Finally, the Appellant requested that his proposal to include “hammer head” turnarounds at the Easterly boundary of East Road at the parcel identified by Assessor’s Parcel Number 012-049-11 and at boundary of Parcels 1 and 3 be reflected in these conditions, removing the requirement for a cul-de-sac at the Project driveway location.
3. Staff of the Community Development Department (hereinafter, “staff”) presented evidence both documentary and testimonial. Staff submitted a staff report dated June, 19, 2018, which includes Exhibits “A” through “J”. Additionally, Lake County Surveyor Gordon Haggitt testified regarding his concerns that the requirements of the County’s Subdivision Regulations be met, particularly in regard to matters of public safety.
4. Appellant presented testimonial and documentary evidence in support of the appeal. Appellant was represented by legal counsel, Erin Carlstrom, who offered both written and oral argument in support of this appeal.
5. That this Board finds, based on the evidence and facts presented in this matter as follows:
 - a. That the unique circumstances of this Project justify the subject deviation, with those modifications hereby determined by the Board to

1 be appropriate and necessary. The Project at issue is a small
2 development, the Appellant has no ownership interest in the real
3 property located adjacent to Spruce Grove Road, utility easements have
4 already been provided to Pacific Gas & Electric, and there are no issues
5 regarding water and/or sewer service. Given the unique nature of the
6 circumstances of this Project, this Board expressly finds and herein
7 states that this decision is not intended to nor shall it have precedential
8 value in the County of Lake.

9 b. That this Board modifies the conditions of Parcel Map 15-03 as
10 follows:

- 11 1. The following conditions are hereby deleted in their entirety:
12 Conditions B.1, C.3, D.4, D.5, and D.6.
- 13 2. Conditions C.4 and C.5 shall not be deleted as requested by
14 Appellant, but are hereby modified and combined as one to read
15 as follows: Ground disturbance, including but not limited to,
16 discing and/or ripping shall not be conducted within the existing
17 historical limits of the mapped vernal pool.
- 18 3. Condition D.1 is hereby modified to read as follows:
19 Prior to recordation of the final map, a written maintenance
20 agreement shall be prepared and recorded wherein the Appellant
21 agrees that those portions of East Road served by the Project and
22 the driveway to the existing residence on Parcel One of the
23 Project shall be maintained pursuant to CalFire standards as
24 referenced in CalFire's letter dated February 5, 2017 and
25 designated in the June 19, 2018 staff report as Exhibit "F".

26 c. That this Board accepts and hereby orders the addition of the stipulation
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of the parties reached in the course of these proceedings that the portion of East Road contained within the Appellant's Project site shall be offered for dedication by Appellant as a public roadway and public utility easement on the final map.

d. That this Board has considered and incorporates by reference the Community Development staff memorandum and exhibits thereto submitted to this Board for the hearing, as well and other documentary evidence submitted by the Appellant.

6. Based upon all the foregoing and for the reasons set forth hereinabove, this Board grants the appeal of Patrick Smythe in part and denies it in part.

NOTICE TO APPELLANT: You are hereby given notice that the time within which any judicial review of the decision herein may be sought is governed by the provisions of the Code of Civil Procedure Section 1094.5.

Dated: _____

CHAIR, Board of Supervisors

ATTEST: CAROL J. HUCHINGSON
Clerk to the Board
of Supervisors

APPROVED AS TO FORM:

By: _____
Deputy

ANITA L. GRANT
County Counsel