



**COUNTY OF LAKE**  
**COMMUNITY DEVELOPMENT DEPARTMENT**  
Courthouse - 255 N. Forbes Street  
Lakeport, California 95453  
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Item 4  
10:45 a.m.  
March 26, 2009

## **STAFF REPORT**

**TO:** Planning Commission

**FROM:** Richard Coel, Community Development Director  
Prepared by: Emily Minton, Principal Planner *EM*

**DATE:** March 12, 2009

**SUBJECT:** Williams Subdivision; SD 06-06, IS 06-18  
Supervisor District 5

**ATTACHMENTS:**

1. Vicinity Map
2. Agency Comments
3. May 22, 2008 Planning Commission Staff Report
4. Correspondence received from Mosier Engineering dated May 21, 2008 in Response to the May 22, 2008 Planning Commission Staff Report
5. May 22, 2008 Planning Commission Minutes excerpt
6. Board of Supervisors' Memo from Staff
7. September 8, 2008 Board of Supervisors Minutes excerpt
8. Board of Supervisors' Findings of Fact and Decision
9. Preliminary Grading Plan
10. Tentative Subdivision Map
11. Recommended Mitigation Measures and Tentative Subdivision Map Conditions

### **I. SUMMARY**

The applicant is proposing a subdivision of approximately 53 acres to create 13 approximately one-acre residential lots and one remainder parcel. This project was denied by the Planning Commission on May 22, 2008. The applicant appealed the Planning Commission's determination to the Board of Supervisors. On September 9, 2008, the Board granted the appeal and remanded this project to the Planning Commission for further consideration subsequent to the necessary CEQA review. Once the Planning Commission completes the CEQA review, the project will be scheduled for a hearing before the Board of Supervisors.

## II. PROJECT DESCRIPTION

Applicant/Owner: Ray Williams, P. O. Box 1530, Kelseyville

Location: 8999 Miwok Way, Kelseyville

A.P.N.: 009-003-31

Zoning: The portion of the property on which the 13 lots are proposed is zoned "SR", Suburban Reserve (one dwelling unit per one to five acres). The remaining portion of the property is zoned "RL", Rural Lands (one dwelling unit per 20 to 40 acres).

General Plan: Suburban Residential Reserve and Rural Lands consistent with the zoning

## III. ENVIRONMENTAL SETTING

Existing Uses and Improvements: Some of the property was cleared to allow for geotechnical and archaeological studies. The majority of the property is vacant with natural vegetation.

### Surrounding Zoning and Land Use:

The site is located in the hills below and southeast of the peak of Mount Konocti. Homes in the Clear Lake Riviera subdivision are located north and east of the site on lots that are approximately 6,000 to 14,000 square feet and zoned "R1-RD". The majority of the Clear Lake Riviera subdivision lies on lands with average cross slopes of less than 20% (see Attachment 3). The Clear Lake Riviera Subdivision was established in the 1960s, prior to the California Environmental Quality Act. Lands to the south are very steep and undeveloped.

Topography: The area in which the subdivision is proposed has an average slope of 20 to 30%. The lots proposed on the east side of the new road average 22% slope or less. The lots proposed on the west side of the new road have an average slope of over 22%.

Soils: According to the Lake County Soil Survey, the portion of the property on which lots 1, 2 & 3 are proposed consists of the *Sodabay-Konocti association, 5 to 30 percent slopes* (soil unit 223). This association contains rock outcroppings and stones one to 25 feet in diameter. This unit also has a severe hazard of erosion, rapid surface runoff and moderately slow permeability. This unit is used mainly as wildlife habitat, watershed, orchards, but it can also be used for home site development. The remainder of the property is identified as *Benridge-Konocti association, 15 to 30 percent slopes* (soil unit 112). This soil unit is found on hills

and mountains and has a severe hazard of erosion, rapid surface runoff and moderately slow permeability. This unit is used mainly as wildlife habitat and watershed, and it can also be used for home site development.

<u>Vegetation:</u>	Manzanita, chaparral, pine trees, native vegetation
<u>Natural Hazards:</u>	The entire project is within an extremely high wildfire hazard area. A small piece of the western portion of the property is within an Alquist-Priolo Earthquake Fault Zone. This portion of the property is within the proposed remainder parcel and it does not cross the proposed 13 lots. A landslide/debris flow hazard has also been identified on the property, which is discussed in more detail in the Discussion section of the staff report.
<u>Water Supply:</u>	A Public Community Water System is proposed as a mutual water company that will pump water from a 640 foot deep well on the property.
<u>Sewage Disposal:</u>	Individual septic systems
<u>Fire Protection:</u>	Kelseyville Fire Protection District and the California Department of Forestry and Fire Protection
<u>School District:</u>	Kelseyville Unified School District

#### **IV. BACKGROUND**

Staff previously recommended that the Planning Commission deny the project due to the presence of debris flows and potential for additional debris flows to occur on the site; the extensive grading that will be necessary; the site may not be physically suitable for the proposed density; and potential inconsistencies with the General Plan and Rivas Area Plan. The project is located adjacent to Clear Lake Riviera, but connection to the Mount Konocti Mutual Water Company is not possible. The Planning Commission's primary reason for denying the project was that it would entail the creation of a new small water system to serve the proposed subdivision. The Planning Commission also discussed the proposed density and geologic instability concerns. On appeal, the Board of Supervisors granted the appeal with findings that: (1) although geotechnical mitigations would likely be significant, that mitigation measures could be employed, and (2) due to the project location, the applicant may be afforded the opportunity to make further efforts to resolve the issue of water supply (see Attachment 4). In granting the appeal, the Board of Supervisors now has the approval authority for the subdivision. The Planning Commission may make a recommendation for a negative declaration to the Board incorporating mitigation measures that should be included in the conditions of approval. In light of the Board of Supervisors action, if the Commission finds that the potential impacts of the project can be mitigated, then a mitigated negative declaration should be

recommended. If the Planning Commission determines that the proposed project may have a significant effect on the environment and the proposed mitigation measures do not adequately address these potential issues, the Commission may require additional studies, including a focused Environmental Impact Report.

Comments included in Attachment 2 refer to a proposed activated sludge treatment plant and the use of reclaimed water for irrigation. These aspects of the project are no longer proposed. Soils analyses were completed for each proposed lot. The Environmental Health Division has confirmed that each proposed lot can be developed with a standard septic system.

## V. ENVIRONMENTAL ANALYSIS

### Issue: Land Use

Impact/Analysis: This project must be found to be consistent with the Lake County Zoning Ordinance and General Plan, the Rivas Area Plan and the State Subdivision Map Act.

The “SR” zoning requires a minimum of 40,000 square feet per lot for the eastern portion of the property. All of the proposed lots meet this requirement. The proposed lots also meet all of the length and width requirements of the “SR” zoning district. The Subdivision Ordinance requires that 50 feet of right-of-way be dedicated for the new roads. For roads that are created on steep land, the Subdivision Ordinance requires additional right-of-way dedication to contain the cut and fill slopes plus an additional 10 feet of natural ground for erosion control and maintenance access. The additional road dedication may reduce some net lot sizes, but it appears that each resulting lot will be consistent with the 40,000 square foot minimum size requirement.

The Lake County General Plan land use designation for the portion of the property on which the 13 lots are proposed is Suburban Residential Reserve. *“This land use category serves as a transitional designation between rural residential and urban residential uses, but due to soil and slope characteristics, lots of generally larger than one acre minimum are necessary”* (page 3-11). The General Plan requires that parcels created in this land use designation be a minimum of one gross acre. The General Plan requires acreage minimums of at least two acres in areas identified as primary recharge areas for a community's water system; and requires acreage minimums in excess of three gross acres in areas with average cross slopes of 30% or greater. The portion of the property on which the subdivision is proposed has an average slope of 20 to 30%. Therefore, the proposed one acre minimum parcel size can be found to be consistent with the General Plan.

Rivas Area Plan Objective 4.1.1 is *“To lessen risks to life and property from earthquakes, ground failure and other known geologic hazards”* (p. 4-6). Rivas Area Plan Policy 4.1.1a: *“Land division and commercial development should be strongly discouraged on lands with slopes averaging 30 percent or more, in landslide areas and*

*areas of unstable slopes and soils as designated by the State Department of Mines and Geology and the United States Geological Survey. Geotechnical studies prepared by engineering geologists or other qualified professionals shall be required for development projects in areas determined to have existing or potential landslide or seismic hazards. Such studies shall provide sufficient information to determine the extent of any landslide or seismic hazard and recommend mitigation."* Geologic stability issues are discussed in more detail later in this report in the Geology, Soils and Hydrology section.

An Objective of the Rivas Area Plan is to *"Ensure that new development does not conflict with existing development"* (Objective 5.2.1b, page 5-7). Policy 5.2.1b states: *"Infill development shall maintain or enhance the positive qualities of the surrounding neighborhoods..."* (page 5-7). Rivas Area Plan Policy 5.2.1c directs that *"When parcels on the fringe of existing subdivisions are subdivided, height restrictions shall be considered through the review process. Views from adjacent lots shall be considered"* (page 5-8). This policy was primarily written to address the creation of lots between existing subdivisions and Clear Lake in order for lake views from existing homes to remain unobstructed. The Clear Lake Riviera Subdivision CC&R's limit residences to 17 feet in height to maintain views of Clear Lake and Mount Konocti and provide neighborhood consistency. The Clear Lake Riviera Community Association submitted comments on this project, but did not address the height limit issue. It does not appear that homes constructed as a result of this subdivision would significantly obstruct views from surrounding properties. However, for neighborhood consistency, the Planning Commission may consider requiring that the new subdivision's CC&R's include height limits similar to those of Clear Lake Riviera.

The Subdivision Map Act allows a subdivider to create a remainder lot, which is a portion of land that *"is not divided for the purpose of sale, lease, or financing"* (§66424.6). The tentative subdivision approval should require that a conditional certificate of compliance be recorded for the remainder. The conditions of the certificate of compliance must be completed in order to legalize the property. No development will be permitted on that lot until the conditions of the certificate have been fulfilled. The Subdivision Map Act does not require the remainder to be surveyed or shown on the final map if it exceeds five acres in size [Section 66434(e)].

**Mitigation:** If this project is found to be consistent with the General Plan and Rivas Area Plan, land use issues can be mitigated by requiring a conditional certificate of compliance be recorded for the remainder parcel prior to recording the final map. This is included as a recommended mitigation measure in Attachment 11, item F.1.

**Issue: Traffic and Circulation**

**Impact/Analysis:** This project will result in increased traffic. The Department of Public Works recommends that the interior roads (Miwok Court and extension of Miwok Way) be designed and constructed in accordance with the Lake County Minor Road Standard (ADT <400) and terminate at each end with a 45-foot radius cul-de-sac. As discussed in the Land Use section above, the Subdivision Ordinance requires additional right-of-way

dedication for roads that are created on steep land for erosion control and maintenance access. There is a condition in the proposed tentative map requiring the road to be improved to current County standards. There is also a condition requiring a provision for continued maintenance of the new road through CC&R's, a County Service Area, Permanent Road Division, or other means acceptable to the Department of Public Works. The California Department of Forestry and Fire Protection commented that parking should be prohibited in the cul-de-sacs to allow adequate turnaround area for emergency vehicles. This should be included in the subdivisions CC&R's. This is difficult to enforce; however, due to the topography of the site, it is unlikely that visitors would park on the street.

State Public Resources Code 4290, Section 1273.03 requires that the grade for all roads, streets, private lanes and driveways shall not exceed 16%. The *County of Lake Road Design and Construction Standards* also require that the grade of local roads not exceed 16%. Additionally, the grade of the pavement surface through an intersection should not be more than 7% within a distance of 25 feet. The extension of Miwok Way was first proposed with an 18% grade. Staff understands that additional grading is proposed in order to reduce the grades to 16%. The lots proposed on the east side of the new road average 22% slope or less. The lots proposed on the west side of the new road have an average slope between 22 and 29%. It appears that the majority of the proposed driveways exceed 20% grade. The emergency vehicle access also does not appear to meet State standards for maximum slope and turning radius. There are many roads and driveways in Clear Lake Riviera that exceed these standards because they were constructed prior to these standards going into effect. Staff does not feel that this justifies a deviation from current standards for the proposed improvements. The final map or CC&R's should include a note that future driveways will need to be constructed consistent with State and County standards.

Typically, projects should be designed with two points of ingress and egress for emergency purposes. The property has frontage on both Miwok Way and Wintun Way (north of proposed Lot 3). Due to the steep topography of this site, a large amount of grading would be necessary to create an access from Wintun Way that would be consistent with State and County regulations. Instead, a 20-foot wide gated emergency access is proposed. The California Department of Forestry and Fire Protection (CALFIRE) commented that the gate will need to be two feet wider than the roadway easement. Both CALFIRE and the Kelseyville Fire Protection District should review and approve the emergency access prior to recording the final map.

The proposed remainder parcel includes a 10-foot wide panhandle access to the new road. The County Subdivision Ordinance discourages panhandle lots, except in cases where terrain makes them necessary, because their addressing can cause confusion for emergency personnel. This parcel has access to Fairway Drive along its northern boundary. Additionally, the slope of this access appears to be over 20%. Therefore, staff recommends that the panhandle access be removed on the final map.

General Plan Policy T-4.1 states "*The County should consider incorporating facilities for non-motorized users, such as bike routes and pedestrian improvements, when constructing or improving transportation facilities and when reviewing new development proposals. For subdivisions with the density of one or more dwelling units per acre, these facilities will be required*" (page 6-9). Additionally, Rivas Area Plan Policy 5.3.3d is that "*Alternative travel lanes or sidewalks should be incorporated into new residential and commercial development*" (page 5-19). Although Clear Lake Riviera is not developed with sidewalks or walking trails, pedestrians and bicyclists use the limited paved road shoulders throughout the subdivision. Staff recommends that a four-foot wide paved shoulder be provided along Miwok Court and the extension of Miwok Way for this use.

The proposal will have an incremental effect on the roads in Clear Lake Riviera. Rivas Area Plan Policy 5.3.1c states: "*The impact of new development on existing roads shall be considered during the review process.*" Last year, the Public Works Department proposed a benefit zone for maintenance of existing roads in Clear Lake Riviera. This benefit zone was put to a vote by the property owners and failed. If the benefit zone had been approved, the developer could have bought into it. At this point, staff is not recommending mitigation for this incremental impact.

The portion of Takelma Way west of Tomahawk Way is not County-maintained and the right-of-way is private. Therefore, the final subdivision map should include a one-foot non-access strip on the east line of Lot 12 where it abuts Takelma Way to avoid access conflicts in the future.

The proposed subdivision and road names do not duplicate any that are existing and are acceptable to the County Surveyor. A common postal facility should also be provided and dedicated, subject to the approval of the Department of Public Works and the Kelseyville Postmaster.

Mitigation: Mitigations included in the Mitigation Measures in Attachment 11, Section A will reduce potential impacts related to Traffic and Circulation to less than significant.

**Issue: Fire Hazards**

Impact/Analysis: The entire project is within an extremely high wildfire hazard area. The fire district has requested that fire hydrants be installed consistent with the requirements of the Subdivision Ordinance. Subdivision Ordinance Section 63 categorizes property to be divided for residential purposes into three classes for which different fire protection standards apply. The classifications are based on residential unit density and include requirements for hydrant spacing and water pressure, distribution and flow. A condition has been included that addresses the installation of fire hydrants. The developer should also provide a means of access to the security gate for emergency vehicles with a knox box or some other means acceptable to the Kelseyville Fire Protection District.

Rivieras Area Plan Policy 4.3.1a addresses fire protection:

*Residential development in high and very high fire hazard areas shall meet the following fire protection standards unless adequate fire suppression facilities are already available:*

- *Adequate fuel breaks and fuel reduction shall be created and maintained.*
- *Adequate water storage shall be provided and maintained.*
- *Residential access roads shall not exceed slopes that allow safe passage by fully loaded fire equipment, and shall be maintained. Roads and driveways shall meet California Department of Forestry standards and be either looped or double-access to provide escape routes in the event of wildland fire emergencies.*
- *Development shall be clustered where appropriate to take advantage of fuel breaks and improved access to reduce fire danger.*

The Lake County Subdivision Ordinance addresses the clearance of *Flammable Natural Growth* (§68). Section 68 states that all subdivisions or other residential developments of land must be planned so as to comply with the provisions of Section 4291 of the California Public Resources Code. This section of the code applies to “*any building or structure in, upon, or adjoining any grass-covered lands, or any land which is covered with flammable material.*” The code requires the maintenance of a 30- to 100-foot firebreak around structures, in which all flammable or combustible growth must be cleared. These provisions should be included in the subdivision CC&R’s to assure that future property owners are aware of the requirement.

Furthermore, all subdivisions or other residential developments of land protected by Section 4291 must provide an exterior boundary fuel break of not less than thirty feet. Section 68.1 of the Lake County Subdivision Ordinance states: “*In the event that a natural or wilderness area is to be maintained within any subdivision or other residential development of land, said natural or wilderness area shall be separated from any residential unit development, or from any other wilderness or natural area by a fuel break of a minimum distance of seventy-five feet around the entire exterior boundary of said wilderness or natural area. Fuel breaks, green belts or fire breaks may be required to be dedicated or recorded as easements and be provided with a graded access road for emergency access by fire fighting equipment.*” In this case, the majority of the property will remain in its natural state. Staff recommends that fuel breaks with a minimum width of 75 feet be established and maintained between this development and the lands adjoining it on the west and south as a tentative map condition. The CC&R’s should include provisions for the maintenance of the fuel breaks. It may be possible for the developer to work out an agreement with the California Department of Forestry and Fire Protection for the clearing and maintenance of the fuel break. The fuel breaks should be required to be dedicated or recorded as easements. Access roads are not recommended due to the potential for erosion and visual impacts. The developer is proposing fuel breaks as a part of this project, consistent with these standards.



The recommended mitigation measures require that the subdivision's CC&R's include fire safety provisions consistent with the Public Resources Code.

**Mitigation:** Mitigations included in the Mitigation Measures in Attachment 11, Section B will reduce potential impacts related to Fire Hazards to less than significant.

**Issue: Geology, Soils and Hydrology**

**Impact/Analysis:** The project could result in impacts to the area's geology and drainage unless appropriate mitigation is incorporated. The Lake County Grading Ordinance identifies the soils on the site with a severe erosion hazard rating. This rating is a measure of susceptibility of soils to erosion by rain drop impact and surface runoff. A geotechnical study prepared for this project analyzed the eastern approximately 15 acres of the property where the 13 lots are proposed. Geologists explored the subsurface conditions by drilling fifteen test pits to depths ranging from about five to sixteen feet. The geologists also utilized published geologic information. The geotechnical study identified concerns related to design and construction, including evidence of previous debris flows at this site and a potential for additional debris flows to occur at this site, and recommends mitigation measures. The geologists that prepared the geotechnical study for this project judged that the subdivision could be built as planned provided that the recommendations presented in their report were incorporated into the design. The recommended mitigations include: removal and re-compaction of the soils for the new driveways, road and each building site to a depth of 1 to 3.5 feet; the base of the new road and all driveways would need to be buttressed fill; removal and re-compaction of the two existing debris flows on the site, including the portion of the debris flows that extend above the proposed subdivision and then modifying surface drainage away from the subdivision by constructing a buttressed fill and catchment wall above the reworked debris flow material that would be above proposed lots 8, 9 & 10 and approximately 450 wide. The geotechnical report also contains additional detailed recommendations for retaining walls, excavation and filling of soils for stability during home construction.

A significant amount of earthmoving and grading will be necessary for this project. All material will remain on-site during earthmoving activities. No export of earth will be necessary, according to the project engineer. All grading and implementation of erosion control measures will need to be consistent with Chapter 5 of the Lake County Code and the Performance Standards of Article 41 of the Lake County Zoning Ordinance. Project development should also maintain, as much as possible, the natural topography of the site.

Due to the considerable amount of grading necessary to complete this project, the Board of Supervisors discussed submittal of some form of security so that in the event that the applicant begins but is unable to complete the earthwork, the County could rehabilitate the site. Staff recommends that the Planning Commission require monetary assurance be submitted so that in the event that the applicant is unable to complete the earthwork, the County would be able to contract with a third party commercial company for rehabilitation of the site. Rehabilitation would include the combined process of land

treatment that minimizes water degradation, air pollution, damage to wildlife habitat, flooding, erosion, and other adverse effects from earthwork, so that the land would not be a danger to public health or safety. These financial assurances should remain in effect until all earthwork is completed to the satisfaction of the Community Development and Public Works Departments, and the final map is recorded. The applicant may provide security in the form of a surety bond, trust fund, irrevocable letter of credit from an accredited financial institution, or other method acceptable to the County. The amount of the financial assurances should be based on the estimated costs of rehabilitation. Cost estimates should be prepared by a California-registered professional engineer and/or other similarly licensed and qualified professional retained by the developer and approved by the Community Development Department. The estimated amount of the financial assurances shall be based on an analysis of physical activities necessary to implement rehabilitation, the unit costs for each of these activities, the number of units of each of these activities, and the actual administrative costs. Financial assurances should be based on cost estimates that include labor, equipment, materials, mobilization of equipment, administration, and reasonable profit by a commercial operator. Additionally, a contingency factor of ten (10) percent should be added to the cost of financial assurances. In projecting the costs of financial assurances, it should be assumed, without prejudice or insinuation that the project could be abandoned and, consequently, the County may need to contract with a third party commercial company to rehabilitate the site. The language for this recommendation was modified from Lake County Code Chapter 24 regulations for reclamation assurance related to surface mining.

A small piece of the western portion of the property is within an Alquist-Priolo Earthquake Fault Zone. This portion of the property is within the proposed remainder parcel and does not encumber the proposed 13 approximately one-acre lots. As discussed above, a conditional certificate of compliance (CCC) will be required for this parcel. One of the conditions of the CCC should be that the requirements of the Alquist-Priolo Earthquake Fault Zoning Act be fulfilled. The Act requires geologic reports to be prepared for projects proposed within Earthquake Fault Zones. The required report must be based on a geologic investigation designed to identify the location, recency and nature of faulting that may have affected the project site in the past and may affect it in the future. A second geologist retained by the County must review the report and confirm its findings. The County cannot approve a project within an Earthquake Fault Zone until the geologic and soil conditions of the project site are investigated and appropriate mitigation measures, if any, are incorporated into the development plans. These studies are not required for the proposed 13 one-acre lots because they are not within an identified Earthquake Fault Zone.

The project may alter the existing drainage pattern of the area and construction activities may result in erosion and sedimentation both on-site and off-site. A neighboring property owner submitted a letter outlining concerns with the existing drainage pattern and potential impacts resulting from this project. The Department of Public Works reviewed a preliminary hydrology report prepared by the applicant's engineer that demonstrated an approximately 3% increase in flow from the proposed development. According to the Department of Public Works, when considered in total, this increase is not significant.

However, the Department further commented that the concentration of flows inherent in road construction and development may significantly impact individual drainage facilities. They commented that during the final design, if it is discovered that downstream drainage facilities would be significantly impacted, appropriate mitigation will be required at that time. Prior to start of construction, final engineered drainage and improvement plans will be reviewed by County Engineers to ensure that Best Management Practices (BMP's), erosion and runoff controls, are included in the project. The geotechnical study recommends that areas of development below slopes with potential for debris flows be protected with drainage controls and catchment/diversion structures. Drainage from the large catchment wall proposed to help stabilize the re-compacted debris flow material above Lots 8, 9 and 10 is proposed to be directed to a new detention pond on a parcel to the south, which is also owned by Mr. Williams. Due to the steepness of the property, the County will require extraordinary erosion and runoff control practices during road construction, home construction and post-construction. Additionally, prior to recording the final map, a method of financing and performing the long-term maintenance of the post-construction BMP's must be established through CC&R's or other appropriate methods.

It is likely that review by the California Regional Water Quality Control Board will be necessary. The State Water Resources Control Board is implementing the National Pollution Discharge Elimination System (NPDES, Phase II) under federal mandate as specified in the Clean Water Act. It is likely that a National Pollutant Discharge Elimination System (NPDES) General Construction Permit will be required. Cumulative ground disturbance may exceed one acre. Therefore, a General Construction Permit may need to be obtained through the Central Valley Regional Water Quality Control Board. If the project is subject to the General Construction Permit, a copy of the Storm Water Pollution Prevention Plan (SWPPP) should be provided to the Community Development Department prior to start of road construction.

Mitigation: Staff has concerns about the large scope of mitigation necessary to develop the site. Mitigations included in Section C of the Mitigation Measures in Attachment 11, include recommendations from the geotechnical study prepared for the project that may reduce potential impacts related to Geology, Soils and Hydrology.

### **Issue: Utilities, Service Systems and Water Supply**

Impact/Analysis: This project will result in an increased need for utilities and service systems. The General Plan, Public Services Section, includes an objective to "*ensure the provision of an affordable, sustainable, reliable, safe, and adequate water supply with distribution and storage facilities to meet the existing and future needs in the County*" (page 5-4). The General Plan also includes the following policy: "*The County shall discourage the formation of new water distribution systems unless long-term fiscal and technical feasibility can be demonstrated prior to approval. Additionally, new systems should not be allowed in areas that can feasibly be served by existing water service providers, if approved through LAFCo*" (page 5-4). The project will likely result in the creation of a Public Community Water System to serve the proposed 13 lots. The

applicant may also consider the use of individual wells as an alternative to the creation of the water company. The Mt. Konocti Mutual Water Company was established to provide water to the Clear Lake Riviera Subdivision. A representative from the Mount Konocti Mutual Water Company spoke at a previous hearing that the Company will not be able to provide water service to the proposed lots. The Water Company utilizes surface water from Clear Lake.

The California Department of Public Health is responsible for the enforcement of the Federal and State Safe Drinking Water Acts and the regulatory oversight of approximately 7,500 water systems. The State has design and construction standards for Public Water Systems. California Health and Safety Code Section 116275 (h) defines a Public Water System as "*a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year.*" The County Environmental Health Division has stated that they will oversee the design, construction and regulation of the Water System until it reaches the threshold for State oversight. The County will require that the Water System meet State design and construction standards.

CEQA Guidelines Section 15155 requires a water supply assessment when a residential development of more than 500 dwelling units is proposed. Therefore, typical developments in Lake County, including this one, will not trigger this requirement for a water supply assessment. State law requires that approved subdivisions be consistent with the General Plan. General Plan Water Supply Policy PSF-2.6 states that "*the County shall not approve new use permits or subdivisions unless an adequate supply of quality water and wastewater treatment capacity is available or will be developed prior to breaking ground for construction*" (page 5-4). A 3-hour pump test was performed for the well on the site that found that it produces approximately 20 gpm (gallons per minute) and that the water temperature is 79°F. The County Environmental Health Division typically requires a 72-hour pump test to determine the production capacity of a well. However, in this case, it was impractical to require a 72-hour pump test because a 20 gpm well would produce over 80,000 gallons of water in 72 hours and there are currently no storage tanks or other means of containing the water on the site. Due to the location and topography of the site, the water could potentially have flooded the downslope homes and properties in Clear Lake Riviera. The 72-hour pump test will be required prior to establishing the water system, once a storage tank or some other means of containing the water is constructed on the site. Preliminary plans for the Water System include a storage tank that will be located on the hill above the 13 lots. The subdivision CC&R's will include provisions for a water master and maintenance of the water system. Prior to recording the final map, Environmental Health will require either the establishment of a water system or that individual wells be constructed on each lot. The final map and/or CC&R's should contain a disclosure that the County will never take over this water system.

A 25-foot wide utility easement, water line and water tank are proposed along the southern property line. The property to the south is also owned by Mr. Williams. The

well and related facilities should be on their own fenced lot, separated from any other residential lots, to avoid liability issues. New water lines should be contained within easements that are offered for dedication, but because the facilities will not be public, the offer will be rejected by the Board of Supervisors.

There is not a sewer system in this area, and all the homes in Clear Lake Riviera have individual septic systems. The subdivider completed site evaluations for septic consistent with Environmental Health requirements. Each lot can be developed with a standard septic system.

General Plan Policy PFS-6.3 states that *"The County shall require utility lines in new subdivisions to be placed underground, except where it is not feasible due to operational constraints"* (page 5-8). The Subdivision Ordinance states that the requirement for the undergrounding of power, cable and phone lines is at the discretion of the Planning Commission (§27). The Rivas Area Plan notes that *"Billboards, overhead power lines, poorly maintained structures or unscreened mining operations can spoil views. The value and continued enjoyment of scenery is dependent upon the knowledge that views and view sheds can change over time. Unregulated development can diminish this resource"* (page 3-36). Rivas Area Plan Objective 3.5.2a is *"To take measures to protect and enhance scenic resources in the Rivas Planning Area and promote a visually appealing environment"* (page 3-39). Rivas Area Plan Policy 3.5.2a states that *"The County shall encourage utility lines to be installed underground wherever possible. Where installing utilities underground is not practical, lines shall be sited in a manner that minimizes their visual intrusion"* (page 3-39). Although existing utilities in Clear Lake Riviera are above ground, staff recommends that the utilities be installed underground and a condition is included in the permit.

The Subdivision Ordinance requires five-foot wide public utility easements to be provided along *"all rear and side lot lines for poles, wires, conduits, drainage, sanitary sewers, gas and water mains, or other utilities"* (§24). A condition is included in the permit.

**Mitigation:** Staff has concerns that there has not been sufficient analysis of the water supply. However, Attachment 11 includes a condition that prior to recording the final map, potable water shall be provided to each lot, consistent with State and County requirements. If there is not adequate water available to serve the proposed 13 lots through one or more wells on the site, the final map will not be able to be recorded. If the Commission finds that this mitigation measure does not adequately address the water supply requirements of the Subdivision Ordinance or is inconsistent with the General Plan policy regarding the creation of new water systems, additional studies focused on water supply may be required.

**Issue: Air Quality, Noise and Glare**

**Impact/Analysis:** This project will likely have temporary impacts related to air quality and noise. The Air Quality Management District (AQMD) commented that construction

activities would create air quality impacts. The AQMD recommended that base rock be placed as soon as possible during the initial grading phase to minimize dust from construction traffic. The comments included in Attachment 2 were drafted prior to receipt of the geotechnical study that outlined the extent of grading necessary to complete the project. Planning staff has since discussed the scope of the grading with AQMD staff. Due to the proximity of downslope residences, a fugitive dust control plan will need to be in place prior to earthwork. In addition to water or other dust palliatives, the plan should also include additional measures to physically block dust from migrating off-site throughout the road construction process.

Long-term emissions are expected to be those associated with vehicle traffic and household activities. Fugitive dust, smoke and exhaust emissions are the primary air pollutants of concern. The Lake County Air Basin is currently in compliance with all of the State Ambient Air Quality Standards, and this project is not of the size that would be expected to result in sufficient area-wide air quality impacts. However, occasional short-term and localized impacts may be expected.

The AQMD recommended that removed vegetation be chipped and spread for ground cover and erosion control. Site development and vegetation disposal should not create nuisance odors, smoke or dust. The AQMD strongly discourages burning at this location due to the close proximity of residences. If large-scale brush removal and burning is necessary, a Smoke Management Plan will need to be obtained from the AQMD. Lots less than one acre do not qualify for residential burn permits and the AQMD recommends that property adjacent to existing small residential lots have burning restrictions to provide a buffer zone between the larger parcels and more dense residential uses. Due to air quality and health considerations, the AQMD recommends that backyard open burning be restricted by the subdivision CC&R's. Staff agrees with this restriction due to the steep slopes and high fuel loading.

The AQMD also discourages wood heating equipment due to the local topography, the close proximity of residences and general area adverse air quality impacts. The Planning Commission has the discretion to recommend a condition requiring such a prohibition as a note on the final map, in the CC&R's or by another similar instrument. The Clear Lake Riviera Subdivision CC&R's does not have this restriction, although many more recent subdivisions do (Clear Lake Riviera was established in the 1960's).

No serpentine (which may contain asbestos) has been identified on the site; however, if any is exposed during road construction, a serpentine dust control plan should be implemented, subject to AQMD approval. The District also recommends that serpentine not be used as a surface material that would be subject to wear.

Noise generated by the project will mainly be associated with removal and recompaction of soils, grading, and road construction. As discussed above, some of the project site's soils will need to be removed and recompact, which will create noise. The recommended mitigation measures include requirements regarding working hours and noise generated by equipment.

The Zoning Ordinance exempts construction site sounds between 7:00 a.m. and 7:00 p.m. from maximum sound emissions regulations. The recommended mitigation measures include a requirement that all construction activities shall be limited to weekdays and Saturday between the hours of 7:00 a.m. and 7:00 p.m.

Rivieras Area Plan Objective 3.5.2g is to "*Protect night skies from light pollution.*" The developer is not proposing street lights. Staff does not recommend that the Planning Commission require the project to include street lights, due to the one-acre parcel sizes and because Clear Lake Riviera has very few streetlights.

Mitigation: Air Quality and Noise impacts during project development will impact neighboring property owners. Staff has concerns that there has not been sufficient analysis of the potential dust and air quality impacts. If the Commission determines that the project may result in potential impacts that can not be mitigated by Mitigation Measures section E, a focused study may be required to further analyze potential impacts.

#### **Issue: Biological Resources**

Impact/Analysis: The California Natural Diversity Database that is maintained by the California Department of Fish and Game does not identify any rare or endangered species on the site. This proposal will result in an incremental reduction in wildlife habitat and, therefore, will be subject to the State Fish and Game fee.

Mitigation: Mitigations included in the Mitigation Measures in Attachment 11, item F.2 may reduce potential impacts related to Biological Resources to less than significant.

#### **Issue: Cultural Resources**

Impact/Analysis: An archaeological survey found no significant cultural resources on the property. As with all projects involving earthmoving, all work shall stop in the vicinity of a potential cultural resource that is discovered during construction until a professional can be contacted to evaluate the site and any necessary mitigations be approved before work is recommenced.

Mitigation: Mitigations included in the Mitigation Measures in Attachment 11, item A.19 will reduce potential impacts related to Cultural Resources to less than significant.

#### **Issue: Recreation**

Impact/Analysis: This project will result in a slight increase in the need for recreational facilities, due to an increase in home sites. The Subdivision Ordinance states that "*as a condition of approval of a tentative map, the subdivider shall dedicate land, pay a fee in lieu thereof, or both, at the option of the County, for park or recreational purposes... unless each lot is twenty acres or more*" (Section 27A.2). The County Public Services Department is currently working to establish a park adjacent to the Riviera Elementary

School. Therefore, staff does not recommend that recreational facilities be required on the project site. Staff recommends that the payment of park in-lieu fees is appropriate for this subdivision.

Mitigation: Mitigations included in the Mitigation Measures in Attachment 11, item F.3 will reduce potential impacts related to Recreation to less than significant.

## **VI. DISCUSSION**

The proposed project has the potential to degrade the quality of the environment and result in adverse indirect or direct effects on human beings. In particular, potential impacts related to Air Quality, Noise, Geology and Soils, Hydrology, and Utilities and Service Systems have been identified. In order to adopt a mitigated negative declaration to satisfy CEQA, mitigation measures must be incorporated into the project to mitigate the potential environmental impacts to insignificant levels. If the Commission determines that the potential impacts of the project can be mitigated to less than significant levels with the mitigations outlined in Attachment 11 (or with modifications made by the Commission), then a mitigated negative declaration should be recommended to the Board of Supervisors. If the Planning Commission finds that the mitigation measures do not adequately address the potential environmental impacts of this project, additional studies or a focused Environmental Impact Report may be required that focuses on those impacts.

## **VII. RECOMMENDATION**

The Planning Commission may take either of the following actions:

- A. Recommend that the Board of Supervisors adopt a mitigated negative declaration for SD 06-06 with the mitigations in Attachment 6 with the following findings:
  - 1. Potential environmental impacts related to land use have been mitigated to insignificant levels by Mitigation Measure F.1
  - 2. Potential environmental impacts related to traffic and circulation have been mitigated to insignificant levels by Mitigation Measures conditions section A.
  - 3. Potential environmental impacts related to fire hazards have been mitigated to insignificant levels by Mitigation Measures section B.
  - 4. Potential environmental impacts related to Geology, Soils and Hydrology have been mitigated to insignificant levels by Mitigation Measures section C.
  - 5. Potential environmental impacts related to utilities, service systems and water supply have been mitigated to insignificant levels by Mitigation Measures section D.



6. Potential environmental impacts related to air quality and noise have been mitigated to insignificant levels by Mitigation Measures section E.
7. Potential environmental impacts related to biological resources have been mitigated to insignificant levels by Mitigation Measure F.2.
8. Potential environmental impacts related to cultural resources have been mitigated to insignificant levels by Mitigation Measure A.19.
9. Potential environmental impacts related to recreation have been mitigated to insignificant levels by Mitigation Measure F.3.
10. This project is consistent with land uses in the vicinity.
11. This project is consistent with the Lake County General Plan and Zoning Ordinance.
12. This project is consistent with the State Subdivision Map Act.
13. This project, as mitigated, will not result in any significant adverse environmental impacts.

B. Require the preparation of a focused Environmental Impact Report.

**Sample Motions:**

**Mitigated Negative Declaration**

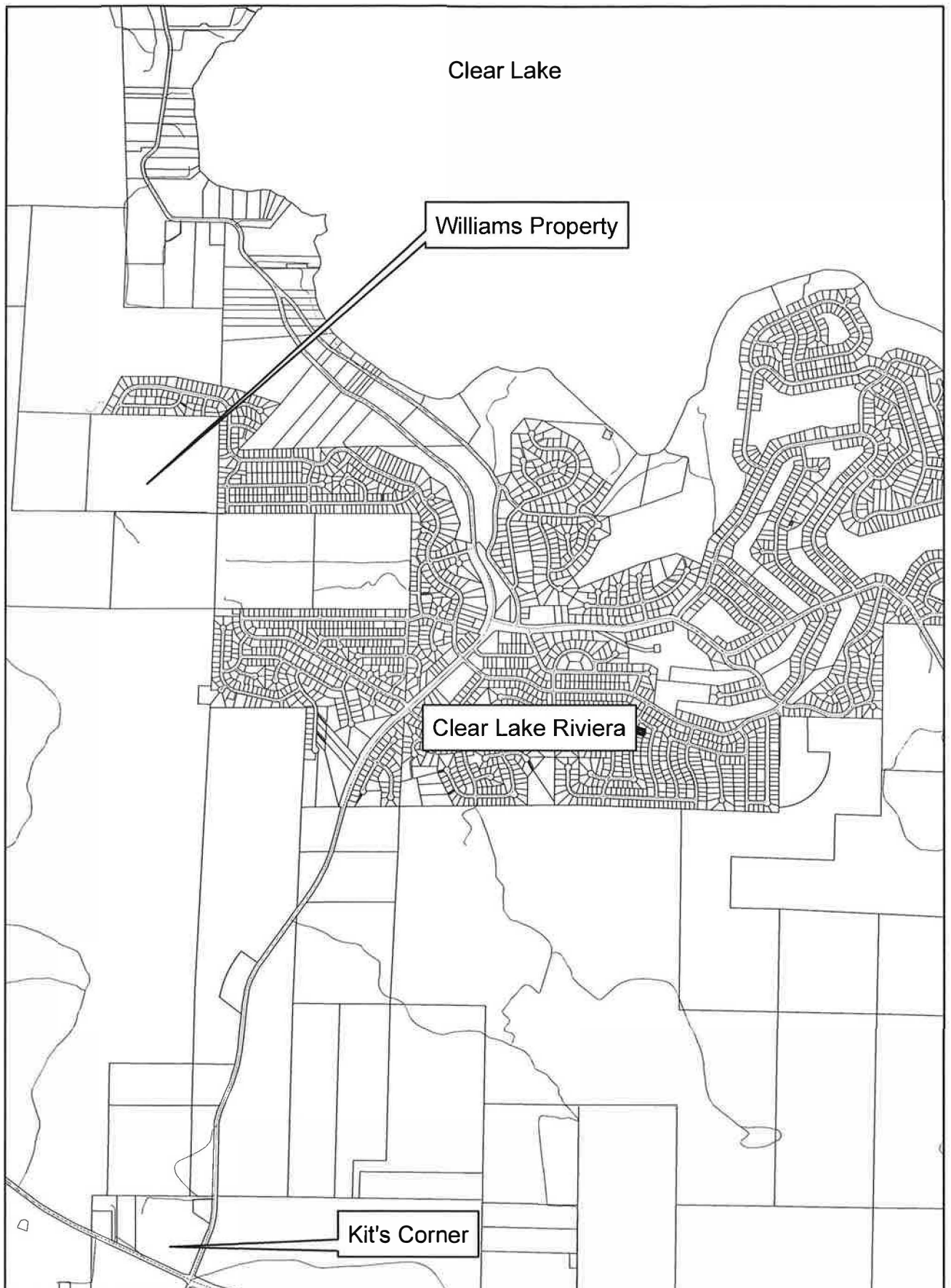
I move that the Planning Commission recommend that the Board of Supervisors find that on the basis of the Initial Study No. 06-18 prepared by the Planning Division and the mitigation measures which have been added to the project, that the subdivision as applied for by Ray Williams will not have a significant effect on the environment and, therefore, that they adopt a mitigated negative declaration with the findings listed in the staff report dated March 12, 2009.

**Motion Requiring an EIR**

I move that the Planning Commission find that on the basis of the information contained in the Initial Study prepared by the Planning Division for the tentative subdivision map (SD 06-06) applied for by Ray Williams on property located at 8999 Miwok Way, Kelseyville, will have a significant effect on the environment and, therefore, a focused EIR shall be prepared focusing on the issues of \_\_\_\_\_.

**NOTE:** An action of the Planning Commission regarding CEQA can not be appealed.

# Williams Property Adjacent to Clear Lake Riviera



March 26, 2009  
Planning Commission  
ATTACHMENT 1