

**El Dorado County  
Board of Supervisors  
District III  
530-621-5652**

# Memo

**To:** Board of Supervisors  
**From:** Supervisors Nutting & Sweeney   
**Date:** 1/29/2010  
**Re:** Item #16 on 2/2/10 BOS Agenda – Nugent

Supervisors Nutting & Sweeney recommend the following on item #16 for the February 2, 2010 Board Agenda.

Northeast one-quarter Section 35, T11N, R12E, MDM APN 101-030-13

This is a request for a Tentative Parcel Map to allow for the creation of one additional parcel out of a parcel that has been owned by the Harris family since April 30, 1880. Patent was by Matthew Blair, the Great Grand Father of the applicants. Historically this family has been very good members of this community and have been good stewards of this property without any governmental supervision or regulation. The conditions being placed on the approval of the project seem to be an overwhelming protection by this county.

The family is only asking to have a separately owned parcel to comply with the settlement of the estate.

As this project is conditioned (see conditions beginning on page 121 of BOS item 19, January 19, 2010 leg item 09-1516.F) "*While zoned TPZ and/or AE, both parcels are prohibited from constructing any additional residences or non-compatible development*". The parent parcel would be divided into a 125 acre parcel containing the existing improvements and an undeveloped 25 acre parcel; BUT, the new 25 acre parcel WOULD NOT BE ALLOWED TO CONSTRUCT A RESIDENCE THEREON; this is due to the TPZ zone. If ever there was a legitimate reason to allow an additional residence in TPZ, this application deserves our help in finding a way to allow such use. Condition 12 goes on to state no development of either parcel "*until and unless a rezone from TPZ and AE to another zone district has occurred*".

We believe a waiver from the TPZ additional residence limitation should be sought and we believe, as set forth hereafter, many of the conditions are too onerous for this project.

Our ordinances are clear about what can and cannot be developed in TPZ and/or AE; therefore under the Conditions of Approval I propose the following:

To be removed

## Conditions of Approval

### I. PROJECT DESCRIPTION

1. This tentative parcel map is based upon and limited to compliance with the project description, the Planning Commission hearing exhibit marked Exhibit E and conditions of approval set forth below. Any deviations from the project description, exhibits, or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

The project description is as follows:

Tentative parcel map subdividing a 150 acre parcel zoned TPZ and AE into a 25 acre, zoned exclusively TPZ, and 125 acre parcel, zoned both TPZ and AE. While zoned TPZ and/or AE, both parcels are prohibited from constructing any additional residences or non-compatible development as defined under Section 17.06.050.GG of the Zoning Ordinance. The parcels will be served by individual well and septic systems. Primary site access will be provided via Blair Road and Badger Hill Road.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased, or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto.

**NOTE: If the county does not require any road construction as a condition of the Parcel Map many of the conditions are not required; these would be conditions 2,3,13,**

### II. PROJECT CONDITIONS OF APPROVAL

#### Planning Services

2. In the event that previously unknown cultural resources are discovered during construction, operations shall stop in the immediate vicinity of the find and a qualified archaeologist shall be consulted to determine whether the resource requires further study. The qualified archeologist shall make recommendations on the measures to be implemented to protect the discovered resources, including but not limited to excavation of the finds and evaluation of the finds, in accordance with § 15064.5 of the CEQA Guidelines. Cultural resources could consist of, but are not limited to, stone, bone, wood, or shell artifacts or features, including hearths, structural remains, or historic dumpsites.

3. If human remains are encountered during earth-disturbing activities within the project area, all work in the adjacent area shall stop immediately and the El Dorado County Coroner's office shall be notified. If the remains are determined to be Native American in origin, both the Native American Heritage Commission (NAHC) and any identified descendants shall be notified by the coroner and recommendations for treatment solicited (CEQA Guidelines § 15064.5; Health and Safety Code § 7050.5; Public Resources Code §§ 5097.94 and 5097.98).

4. The applicant shall be required to pay Park-in-Lieu fee of \$150.00 payable to El Dorado County, pursuant to El Dorado County Subdivision Ordinance Chapter 16.12.090. Check shall be submitted to the Development Services Department. A receipt showing compliance with this condition shall be submitted by the applicant to the Planning Services prior to filing of the parcel map.

5. This tentative parcel map shall expire within 36 months from date of approval unless a timely extension has been filed.

6. All fees associated with the tentative parcel map shall be paid prior to filing the parcel map.

7. The applicant shall submit to Planning Services a \$50.00 recording fee and a \$2,010.25 Department of Fish and Game fee prior to filing of the Notice of Determination by the County. No permits shall be issued or parcel map filed until said fees are paid.

8. In the event of any legal action instituted by a third party challenging the validity of any provision of this approval, the developer and landowner agree to be responsible for the costs of defending such suit and shall hold County harmless from any legal fees or costs County may incur as a result of such action, as provided in Section 66474.9(b) of the Government Code.

The subdivider shall defend, indemnify, and hold harmless El Dorado County and its agents, officers, and employees from any claim, action, or proceeding against El Dorado County or its agents, officers, or employees to attack, set aside, void, or annul an approval of El Dorado County concerning a subdivision, which action is brought within the time period provided for in Section 66499.37.

County shall notify the subdivider of any claim, action, or proceeding and County will cooperate fully in the defense.

9. At time of parcel map filing, a 50-foot non-building setback shall be shown on the map from all intermittent streams at the subject site. A 50-foot setback shall also be shown on "Parcel A" (25 acre parcel) from the adjacent land designated Natural Resources to the Northwest of the subject site.

#### **Agriculture Department**

10. Prior to parcel map filing, the Harris Non-Industrial Timber Management Plan shall be updated and amended to include the legal descriptions of the newly created parcels and be recorded with the County Recorder's Office as a deed restriction on the newly created parcels. The updated timber management plan shall be signed and dated at the time of parcel map filing and shall expire no sooner than December 31, 2020. Prior to recordation, the timber management plan shall be reviewed and approved to the satisfaction of the Agriculture Department, Planning Services, and County Counsel.

11. No further subdivisions are permitted to occur on TPZ and AE zoned parcels.

12. No non-compatible development, as defined under Section 17.06.050.GG of the Zoning Ordinance, is permitted to occur on either parcel, until and unless a rezone from TPZ and AE to another zone district has occurred.

#### Department of Transportation

**13. On-site Access Improvements:** Prior to approval of a rezone or issuance of a building permit for a new single-family dwelling, the applicant shall widen the on-site portion of Badger Hill Road and Blair Road to the minimum county standards. As authorized under Section 66411.1 of the Subdivision Map Act, a Notice of Restriction shall be recorded prior to the filing of the map requiring that this condition of approval be satisfied prior to approval of a rezone or issuance of a building permit.

**Note:** Replace 14, 15 & 16 with the following: Concurrently with the filing of the parcel map, the applicant shall grant a 50-foot wide road easement to the County in the present location of Blair Road and Badger Hill Road. This easement will allow for all maintenance activities for the existing public right of way, including, but not limited to, drainage and road maintenance. The easement shall be reviewed and approved by DOT and County Counsel.

**14. Offer of Dedication:** Prior to the filing of the parcel map, the applicant shall grant a 50-foot wide road easement to the County in the present location of Blair Road. This easement will allow for all maintenance activities for the existing public right of way, including, but not limited to, drainage and road maintenance. The easement shall be reviewed and approved by DOT and County Counsel. Prior to approval of a rezone or issuance of a building permit for a new single-family dwelling, the applicant shall irrevocably offer to dedicate in fee, 60 feet of right-of-way along the entire frontage of Blair Road as determined by EDC DOT.

**15. Offer of Dedication:** Prior to approval of a rezone or issuance of a building permit for a new single-family dwelling, the applicant shall irrevocably offer to dedicate 60 feet of right-of-way along the entire frontage of Badger Hill Road as determined by EDC DOT.

**16. Encroachment Permit:** Prior to approval of a rezone or issuance of a building permit for a new single-family dwelling, the applicant shall obtain an encroachment permit from DOT and shall construct the roadway encroachment from Badger Hill Road onto Blair Road to the provisions of County Design Std 103D. As authorized under Section 66411.1 of the Subdivision Map Act, a Notice of Restriction shall be recorded prior to the filing of the map requiring that this condition of approval be satisfied prior to approval of a rezone or issuance of a building permit.

#### El Dorado County Fire Protection District

17. A plan check fee of \$120.00 shall be submitted to the El Dorado County Fire Protection District (EDC FPD) prior to parcel map filing.

**NOTE: In the fifth line below add the word residential between additional and structures.**

18. Prior to filing the parcel map, the applicant shall either install a fire hydrant within 500 feet of each new parcel and submit documentation from the El Dorado Irrigation District indicating that a fire flow of 1,000 gallons per minute at 20 pounds per square inch for two hours will be met or sign an enforceable agreement with the EDC FPD indicating that no occupancy of any additional structures shall occur prior to installation of a NFPA 13D home sprinkler system with 3,000 gallons of water storage for all structures built on each parcel or installation of a fire hydrant within 500 feet of each new parcel and submittal of documentation from the El Dorado Irrigation District indicating that a fire flow of 1,000 gallons per minute at 20 pounds per square inch for two hours will be met.

19. Prior to approval of a rezone or issuance of a building permit for a new single-family dwelling, an amended fire safe management plan, acceptable to the EDC FPD and the California Department of Forestry and Fire Protection, shall be prepared and implemented.

### **Hazardous Materials**

20. If any commercial, industrial, agricultural, mining or any other hazardous materials handling activities have taken place on the property in the past, the applicant must conduct a Phase I Environmental Site Assessment (ESA) prior to parcel map filing. The Phase I must be conducted in accordance with ASTM standard E 1527-00. All information developed in the Phase I process must be submitted to the Hazardous Materials Division (HMD) for review. If upon review of the Phase I information, HMD determines the property is a potentially impacted site, the applicant must apply for a permit, submit a workplan and conduct a Phase II ESA and any required site remediation activities prior to developing property.

### **Surveyor's Office**

21. All survey monuments must be set prior to filing the parcel map.

22. Prior to filing the parcel map, a letter will be required from all agencies that have placed conditions on the map stating that "all conditions placed on P08-0030 by that agency have been satisfied." The letter is to be sent to the County Surveyor and copied to the agent and applicant.