

**EL DORADO COUNTY DEVELOPMENT SERVICES  
PLANNING COMMISSION  
STAFF REPORT**



**Agenda of:** July 23, 2009  
**Item No.:** 7  
**Staff:** Jason R. Hade

**PARCEL MAP**

**FILE NUMBERS:** P08-0030/Harris Parcel Map

**APPLICANT:** Mary H. Nugent

**AGENT:** Wayne Swart

**PROPERTY OWNER:** Mary H. Nugent, Trustee, The Harris Family Survivors Trust

**REQUEST:** Tentative parcel map to create two parcels of 25 acres and 125 acres.

**LOCATION:** At the intersection of Blair Road and Badger Hill Road in the Pollock Pines area, Supervisorial District II. (Exhibit A)

**APN:** 101-030-13 (Exhibit B)

**ACREAGE:** 150 acres

**GENERAL PLAN:** Low-Density Residential (LDR) (Exhibit C)

**ZONING:** Timber Preserve Zone (TPZ) and Exclusive Agricultural (AE) (Exhibit D)

**ENVIRONMENTAL DOCUMENT:** Negative Declaration

**RECOMMENDATION:**

Staff recommends the Planning Commission recommend that the Board of Supervisors take the following actions:

1. Adopt the Negative Declaration based on the Initial Study prepared by staff;

2. Approve P08-0030 subject to the conditions of approval in Attachment 1, based on the Findings in Attachment 2. (Requires Board of Supervisors 4/5 vote for approval pursuant to California Government Code Section 51119.5)

**BACKGROUND**

The proposed parcel map is the result of a mutually agreed upon court settlement between the two affected parties. Pursuant to a proposed 10-year deed restriction, no non-compatible development would be permitted on the proposed 25 acre parcel. The 150 acres of TPZ land would continue to be managed as one unit for timber management plan purposes.

**STAFF ANALYSIS**

Staff has reviewed the project for compliance with the County’s regulations and requirements. An analysis of the proposal and issues for Planning Commission consideration are provided in the following sections.

**Project Description**

Tentative parcel map to create two parcels of 25 acres and 125 acres on a 150 acre site. Pursuant to a proposed 10-year deed restriction, no non-compatible development would be permitted on the proposed 25 acre parcel.

**Site Description**

The project site is at an elevation of approximately 3,600 feet above mean sea level. Approximately 25 acres of the total project site is used for Christmas trees, apple trees, pear trees, a garden, and a residence. Douglas fir and White fir dominate the north facing aspects of the site and the locations near the watercourses. The pines trees are associated with the flat ridge tops away from the watercourses. The subject site is bordered by single-family residential land uses on all sides. Proposed project access would be via Blair Road and Badger Hill Road. No new roads are proposed as part of the project. The proposed parcels would be served by individual well and septic systems.

**Adjacent Land Uses**

	<b>Zoning</b>	<b>General Plan</b>	<b>Land Use/Improvements</b>
<b>Site</b>	TPZ/AE	LDR	Residential and Agricultural / Single-Family Residence
<b>North</b>	RE-5	LDR	Residential / Single-Family Residences
<b>South</b>	RE-5/R1	LDR/HDR	Residential / Single-Family Residences
<b>East</b>	RE-10/R2	LDR/MFR	Residential / Single-Family Residences
<b>West</b>	RE-10	LDR	Residential / Single-Family Residences

### **Access**

The El Dorado County Fire Protection District reviewed the project proposal and concluded that the project would not result in inadequate emergency access to any potential residential structure with the implementation of the conditions of approval included in Attachment 1 of the staff report.

### **Circulation**

The Department of Transportation (DOT) reviewed the proposed project and determined it would not trip the traffic impact threshold within the General Plan. Proposed project access would be via Blair Road and Badger Hill Road.

The 2004 General Plan Policies TC-Xe and TX-Xf (which incorporate Measure Y) require that projects that “worsen” traffic by 2 percent, or 10 peak hour trips, or 100 average daily trips must construct (or ensure funding and programming) of any improvements required to meet Level of Service standards in the General Plan Transportation and Circulation Element. DOT reviewed the proposed project and determined that it would not trigger the threshold described above because of its limited size.

### **Fire**

The El Dorado County Fire Protection District reviewed the proposed project and would require sufficient fire flow documentation or the installation of a home fire sprinkler system as well as an approved fire safe plan. Fire issues are addressed within the project’s conditions of approval.

### **Land Use Compatibility**

As discussed above, the subject site is surrounded by residential and agricultural uses. The proposed project would create one additional residential parcel from an existing parcel within an existing residential/agricultural area. Pursuant to a proposed 10-year deed restriction, no non-compatible development would be permitted on the proposed 25 acre parcel. Further, a minimum 50-foot setback for incompatible uses, such as residential structures, would be applied to the proposed 25 acre parcel from the adjacent Natural Resource designated land to the northwest of the project site. Therefore, the proposed project is compatible within the context of the surrounding land uses pursuant to General Plan Policy 2.2.5.21.

The property has an LDR General Plan land use designation and is located within the Camino/Pollock Pines Community Region Planning Concept area.

### **Wastewater**

No development would be permitted on the proposed 25 acre parcel pursuant to the proposed deed restriction. Further, development of the TPZ parcel would require a zone change or special use permit application with further environmental review. At that time, waste discharge area analysis would be completed and submitted to the El Dorado County Environmental Management Department – Environmental Health Division for review and approval.

### **Water**

As stated above, no development would be permitted on the proposed 25 acre parcel pursuant to the proposed deed restriction. Further, development of the TPZ parcel would require a zone change or special use permit application with further environmental review. At that time, well testing data would be completed and submitted to the El Dorado County Environmental Management Department – Environmental Health Division for review and approval.

### **GENERAL PLAN**

This project is consistent with the applicable policies of the adopted 2004 El Dorado County General Plan. Findings for consistency with the General Plan are provided in Attachment 2. The policies and issues that affect this project are discussed below.

**Policy 2.1.1.7** directs that *development be limited in some cases until such time as adequate roadways, utilities, and other public service infrastructure becomes available and wildfire hazards are mitigated.*

Discussion: As discussed above, the existing and proposed improvements would be adequate to serve the proposed parcel map.

**Policy 2.2.1.2:** states that the low-density residential land use designation *establishes areas for single-family residential development in a rural setting. Parcel sizes shall range from 5.00 to 10.00 acres.*

Discussion: The proposed project density is consistent with the density permitted under the LDR land use designation.

**Policy 2.2.5.21** directs that new development be compatible with the surrounding neighborhood.

Discussion: The two proposed parcels would be in keeping with the General Plan intended development pattern expected in lands designated as Low Density Residential and would be consistent with the surrounding residential densities in the project vicinity. Pursuant to a proposed 10-year deed restriction, no non-compatible development would be permitted on the proposed 25 acre parcel. Further, a minimum 50-foot setback for incompatible uses, such as residential structures, would be applied to the proposed 25 acre parcel from the adjacent Natural Resource designated land to the northwest of the project site.

The property has an LDR General Plan land use designation and is located within the Camino/Pollock Pines Community Region Planning Concept area. As such, the General Plan contemplates a more urban/suburban development pattern for this area in the future.

**Policy 5.7.1.1** directs that the applicant demonstrate that adequate emergency water supply, storage, conveyance facilities, and access for fire protection either are or would be provided concurrent with development.

Discussion: The project would be conditioned by the El Dorado County Department of Transportation to meet the minimum State Responsibility Area (SRA) Fire Safe Regulations for road surface and road width prior to development. The project would be required to meet the required minimum fire flow requirements of the El Dorado County Fire Protection District which would be reviewed and approved by them prior to filing the parcel map.

**Policy 6.2.3.2** directs that the applicant demonstrate that adequate access exists, or can be provided to ensure that emergency vehicles can access the site and private vehicles can evacuate the area.

Discussion: As conditioned, and discussed under Access section above, the project would meet the intent of this policy.

**Policy 7.3.3.4** requires a minimum setback of 100 feet from all perennial streams, rivers, and 50 feet from intermittent streams and wetlands.

Discussion: At the time of parcel map filing a 50-foot setback from all intermittent streams at the subject site shall be shown on the parcel map.

**Policy 8.3.2.1** states that lands zoned Timber Production Zone (TPZ) shall not be subdivided into parcel containing less than 160 acres.

Discussion: Based on the deed restriction prohibiting development on the proposed 25-acre parcel for a minimum of 10 years as well as any further subdivision of the TPZ land, the Agricultural Commission found that the request is consistent with General Plan Policy 8.3.2.1 on December 10, 2008. The 150 acres of TPZ land would continue to be managed as one unit for timber management plan purposes.

The property has an LDR General Plan land use designation and is located within the Camino/Pollock Pines Community Region Planning Concept area. As such, the General Plan contemplates a more urban/suburban development pattern for this area in the future.

**Policy 8.4.2.1** directs that the Agricultural Commission shall evaluate all discretionary development applications involving identified timber production lands which are designated Natural Resource or lands zoned Timberland Production Zone (TPZ) or lands adjacent to the same and shall make recommendations to the approving authority. Prior to granting an approval, the approving authority shall make the following findings:

- A. The proposed use will not be detrimental to that parcel or to adjacent parcels for long-term forest resource production value or conflict with forest resource production in that general area;
- B. The proposed use will not intensify existing conflicts or add new conflicts between adjacent proposed uses and timber production and harvesting activities;
- C. The proposed use will not create an island effect wherein timber production lands located between the project site and other non-timber production lands are negatively affected;

- D. The proposed use will not hinder timber production and harvesting access to water and public roads or otherwise conflict with the continuation or development of timber production harvesting; and
- E. The proposed use will not significantly reduce or destroy the buffering effect of existing large parcel sizes adjacent to timber production lands.

Discussion: The Agricultural Commission reviewed the request at the meeting of December 10, 2008 and recommended the approving authority make the appropriate findings outlined above based on the recommended conditions of approval within Attachment 1 of the staff report.

### **ZONING**

The subject site is currently zoned Timber Preserve Zone (TPZ) and Exclusive Agricultural (AE) which permit the existing uses. The proposed 25-acre parcel lies within the area of the subject site zoned TPZ. As proposed, the parcel would conform to existing zoning and the development standards in Section 17.44.060 for minimum parcel area, building setback requirements of 100 feet on any side from parcel boundaries and road easements, as well having the space to comply with the parking requirements of two spaces not in tandem per dwelling unit pursuant to Section 17.18.060.

### **ENVIRONMENTAL REVIEW**

Staff has prepared an Initial Study (attached as Exhibit G) to determine if the project has a significant effect on the environment. Based on the Initial Study, staff has determined that there is no substantial evidence that the proposed project would have a significant effect on the environment and a Negative Declaration has been prepared.

**NOTE:** This project is located within or adjacent to an area which has wildlife resources (riparian lands, wetlands, watercourse, native plant life, rare plants, threatened and endangered plants or animals, etc.), and was referred to the California Department of Fish and Game. In accordance with State Legislation (California Fish and Game Code Section 711.4), the project is subject to a fee of \$1,993.00 after approval, but prior to the County filing the Notice of Determination on the project. This fee plus a \$50.<sup>00</sup> recording fee, is to be submitted to Planning Services and must be made payable to El Dorado County. The \$1,993.00 is forwarded to the State Department of Fish and Game and is used to help defray the cost of managing and protecting the States fish and wildlife resources. However, staff has determined that the project would have no impact on biological resources. Potential impacts to biological resources would be further evaluated at time of development plan application submittal. As such, the applicant may request a “No Effect Determination Form” from the California Department of Fish and Game to waive payment of said fee.

## **SUPPORT INFORMATION**

### **Attachments to Staff Report:**

Attachment 1 .....	Conditions of Approval
Attachment 2 .....	Findings
Exhibit A .....	Vicinity Map
Exhibit B .....	Assessor's Parcel Map Page
Exhibit C .....	General Plan Land Use Map
Exhibit D .....	Zoning Map
Exhibit E .....	Tentative Parcel Map
Exhibit F .....	Agricultural Commission Memorandum, December 15, 2008
Exhibit G .....	Environmental Checklist & Discussion of Impacts

# **ATTACHMENT 1** **CONDITIONS OF APPROVAL**

**FILE NUMBER P08-0030**

## **I. PROJECT DESCRIPTION**

1. This tentative parcel map is based upon and limited to compliance with the project description, the Staff Report 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 creating two parcels, comprising 25 and 125 acres, on a 150-acre site. Pursuant to a 10-year deed restriction, no non-compatible development is permitted on the 25 acre parcel. 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. All plans (such as Landscape and Tree Protection Plans) must be submitted for review and approval and shall be implemented as approved by the County.

## **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 \$1,993 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 deed restriction shall be signed and dated with the current year and shall remain in effect for a period of not less than 10 years from the date the parcel map is approved by the Board of Supervisors. Prior to recordation, the deed restriction 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 the TPZ zoned parcels, as stated in the deed restriction.
12. No non-compatible development is permitted to occur on the 25 acre TPZ zoned parcel, as stated in the deed restriction.

### **Department of Transportation**

13. **On-site Access Improvements:** The applicant shall widen the on-site portion of Badger Hill Road and Blair Road to the minimum county standards at the time the parcels are rezoned from the current Timber Preserve Zone. The improvements shall be completed to the satisfaction of the Department of Transportation or the applicant shall obtain an approved improvement agreement with security, prior to the filing of the parcel map.
14. **Offer of Dedication:** The applicant shall irrevocably offer to dedicate in fee, 60ft right-of-way along the entire frontage of Blair Road as determined by EDC DOT, prior to the filing of the map. This offer will be accepted by the County.
15. **Offer of Dedication:** The applicant shall irrevocably offer to dedicate 60ft right-of-way along the entire frontage of Badger Hill Road as determined by EDC DOT, prior to the filing of the map. This offer will be rejected by the County.
16. **Encroachment Permit:** 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**. The improvements shall be completed to the satisfaction of the Department of Transportation or the applicant shall obtain an approved improvement agreement with security, prior to the filing of the map.

### **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.

18. In place of fire flow and a hydrant, the applicant may use a NFPA 13D home sprinkler system with 3,000 gallons of water storage for all structures built on each parcel. Prior to filing the parcel map, a deed restriction shall be recorded noting this requirement.
19. A fire safe management plan, acceptable to the EDC FPD and the California Department of Forestry and Fire Protection, shall be prepared and implemented. A letter of compliance with this condition shall be submitted by the fire district to Planning Services prior to filing the map.

### **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.

## **ATTACHMENT 2** **FINDINGS**

### **FILE NUMBER P08-0030**

#### **FINDINGS FOR APPROVAL**

##### **1.0 CEQA FINDINGS**

- 1.1 El Dorado County has considered the Negative Declaration together with the comments received during the public review process. The Negative Declaration reflects the independent judgment of the County and has been completed in compliance with CEQA and is adequate for this project.
- 1.2 No significant impacts to the environment as a result of this project were identified in the initial study.
- 1.3 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Development Services Department - Planning Services located at 2850 Fairlane Court, Placerville, CA.

##### **2.0 GENERAL PLAN FINDINGS**

- 2.1 As proposed, the project is consistent with the Low Density Residential (LDR) land use designation of the subject site, as defined by General Plan Policy 2.2.1.2, because this land use designation permits an allowable parcel size of five to 10 acres. The proposed project parcel sizes conform to the General Plan land use designation.
- 2.2 The proposal is consistent with all applicable Policies of the General Plan including 2.1.1.7 (adequate roadways, utilities, and other public services), 2.2.1.2 (land use density), 2.2.5.21 (compatibility with the surrounding neighborhood), 5.7.1.1 (availability of emergency water), 6.2.3.2 (adequate emergency access), 7.3.3.4 (intermittent stream setbacks), and 8.3.2.1 (subdivision of TPZ zoned lands). The project provides adequate access and site design that ensure compatibility with the surrounding permitted land uses, and is consistent with the General Plan policies identified above.
- 2.3 In addition to consistency with the General Plan policies outlined above, the following required findings can be made as required by General Plan Policy 8.4.2.1.
  - 2.3.1 *The proposed use will not be detrimental to that parcel or to adjacent parcels for long-term forest resource production value or conflict with forest resource production in that general area.* The project will not be detrimental to the subject site or to adjacent parcels for long-term forest resource production or conflict with forest resource production in the project area

because the 150 acre site will continue to be managed as one unit for timber production purposes.

- 2.3.2 *The proposed use will not intensify existing conflicts or add new conflicts between adjacent proposed uses and timber production and harvesting activities.* Pursuant to the required deed restriction to be recorded for the parcels, no non-compatible development is permitted on the 25 acre parcel. As such, no conflicts will occur between adjacent proposed uses and timber production activities.
- 2.3.3 *The proposed use will not create an island effect wherein timber production lands located between the project site and other non-timber production lands are negatively affected.* The 25 acre parcel will continue to be zoned as TPZ lands and managed under one Non-Industrial Timber Management Plan. As such, no island effect will occur.
- 2.3.4 *The proposed use will not hinder timber production and harvesting access to water and public roads or otherwise conflict with the continuation or development of timber production harvesting.* No development will occur on the 25 acre parcel. Therefore, access to water and public roads will not be impacted.
- 2.3.5 *The proposed use will not significantly reduce or destroy the buffering effect of existing large parcel sizes adjacent to timber production lands.* The 150 acre site will continue to be managed as one unit for timber production purposes. As a result, the project will not significantly reduce or destroy the buffering effect of existing large parcel sizes adjacent to timber production lands.

### **3.0 ZONING FINDINGS**

- 3.1 The project, as proposed and conditioned, is consistent with the El Dorado County Zoning Ordinance Development Standards because the proposed parcels meet the development standards of the TPZ zone district pursuant to Section 17.44.060 for minimum parcel area, building setback requirements of 100 feet on any side from parcel boundaries and road easements, as well having the space to comply with the parking requirements of two spaces not in tandem per dwelling unit pursuant to Section 17.18.060.

### **4.0 ADMINISTRATIVE FINDINGS**

#### **4.1 Tentative Parcel Map**

- 4.1.1 *The proposed tentative map, including design and improvements, is consistent with the General Plan and Specific Plan, where applicable.* As proposed, the tentative map conforms to the LDR General Plan land use designation and applicable General Plan policies concerning, adequate roadways, utilities and other public services, compatibility with the surrounding neighborhood, availability of emergency water, adequate emergency access,

intermittent stream setbacks, subdivision of TPZ zoned lands, and impacts to existing and future timber harvesting activities.

- 4.1.2 *The tentative map conforms to the applicable standards and requirements of the County's zoning regulations and Minor Land Division Ordinance.* The proposed parcel sizes of 25 to 125 acres conform to the minimum parcel size of the TPZ zone district for the proposed uses. Additionally, the project conforms to the applicable provisions of the Minor Land Division Ordinance.
- 4.1.3 *The site is physically suitable for the proposed type and density of development.* The creation of one additional parcel with no non-compatible development permitted for at least 10 years at the 150 acre site is compatible with the surrounding existing residential land use densities.
- 4.1.4 *The proposed subdivision is not likely to cause substantial environmental damage.* A negative declaration was prepared for the proposed tentative parcel map. Based on the initial study, it was determined that the project would not have a significant effect on the environment.